

6-23-2009

State v. Danney Clerk's Record Dckt. 38557

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LAW CLERK
38557

Vol. 1 of 2

IN THE
SUPREME COURT
OF THE
STATE OF IDAHO

STATE OF IDAHO,
PLAINTIFF-RESPONDENT

VS.

FILIP DANNEY aka VOGELPOHL,
DEFENDANT-APPELLANT

*Appealed from the District Court of the Fourth Judicial
District of the State of Idaho, in and for ADA County*

Hon MICHAEL R. MCLAUGHLIN, District Judge

JON R. COX

Attorney for Appellant

LAWRENCE G. WASDEN
Attorney General

Attorney for Respondent



38557

36394

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

FILIP DANNEY aka VOGELPOHL,

Defendant-Appellant.

Supreme Court Case No. 36394

CLERK'S RECORD ON APPEAL

Appeal from the District Court of the Fourth Judicial District, in and for the County of Ada.

HONORABLE MICHAEL R. MCLAUGHLIN

JON R. COX

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

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Date: 5/21/2009

Fourth Judicial District Court - Ada County

User: CCTHIEBJ

Time: 03:07 PM

ROA Report

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Case: CR-MD-2007-0006740 Current Judge: Michael Oths

Defendant: Danney, Filip Aka Vog

State of Idaho vs. Filip Aka Danney Vog

Date	Code	User		Judge
5/23/2007	NEWC	ID	Case Created	Michael Oths
		ID	Case Opened	Michael Oths
	ARRN	ID	Video Arraignment - 05/23/2007	Michael Oths
	CHAD	ID	Charge number 1: Charge Booked by ACSO	Michael Oths
	AMCO	ID	Charge number 1: Charge Amended by Prosecutor	Michael Oths
	ARRN	SM	Video Arraignment - Video Arraignment - 05/23/2007	Michael Oths
		SH	Charge number 1: Charge Filed Cause Found	Michael Oths
	ARRN	ML	Video Arraignment	Michael Oths
	ORDR	ML	Order - One Million Bond	Michael Oths
	HRSC	MD	Event Scheduled - Preliminary Hearing - 06/06/2007	Michael Oths
5/25/2007	NOTC	SG	Notice - of Appear/Rosenheim	Michael Oths
	RESO	SG	Defendant Request For Discovery	Michael Oths
6/4/2007	MOTN	RC	Motion - for Bond Reduction	Michael Oths
	NOTC	RC	Notice - of Hearing Re:Motion	Michael Oths
6/6/2007		ME	Charge number 1: Bond Reduced or Amended to - \$100000.00	Michael Oths
	HRSC	ME	Event Scheduled - Preliminary Hearing - 06/28/2007	Michael Oths
6/28/2007	HRSC	ME	Event Scheduled - Preliminary Hearing - 07/23/2007	Michael Oths
7/23/2007		ME	Charge number 1: P/H Waived, Defendant Bound Over - H0700963 D.01	Michael Oths
		ME	Charge number 1: Count Bound To - H0700963 D.01 C.001	Michael Oths
		ME	Charge number 1: Bond Transferred To - H0700963 D.01 C.001	Michael Oths

00003

Date: 5/21/2009

North Judicial District Court - Ada County

User: CCTHIEBJ

Time: 04:46 PM

ROA Report

Page 1 of 4

Case: CR-FE-2007-0000963 Current Judge: Michael McLaughlin

Defendant: Danney, Filip Aka Vog

State of Idaho vs. Filip Aka Danney Vog

Date	Code	User		Judge
7/23/2007	NEWC	ME	Case Created - Bind Over M0706740	Michael McLaughlin
	COMM	ME	Charge number 1: Commitment and Papers	Michael McLaughlin
		ME	Charge number 1: Defendant Transferred In - M0706740 D.01	Michael McLaughlin
		ME	Charge number 1: Count Bound From - M0706740 D.01 C.001	Michael McLaughlin
		ME	Charge number 1: Bond Transferred From - M0706740 D.01 C.001	Michael McLaughlin
	HRSC	ME	Event Scheduled - 1330 - 08/01/2007	Michael McLaughlin
7/24/2007	MOTN	RC	Motion - to Disqualify	Michael McLaughlin
7/25/2007	INFO	RC	Information and Papers Filed	Michael McLaughlin
7/30/2007	ORDR	JW	Order - to Disqualify #195	Michael McLaughlin
7/31/2007	NOTC	MT	Notice - of Reassignment to Judge McLaughlin	Michael McLaughlin
8/6/2007	NOTC	KB	Notice - of Hearing	Michael McLaughlin
	ARRN	KB	Arraignment - 08/10/2007	Michael McLaughlin
8/7/2007	ARRN	KB	Arraignment - Arraignment - 08/17/2007	Michael McLaughlin
		KB	AMENDED NOTICE OF	Michael McLaughlin
		KB	ARRAIGNMENT	Michael McLaughlin
8/17/2007	ARRN	KB	Arraignment	Michael McLaughlin
	APNG	KB	Charge number 1: Not Guilty Plea	Michael McLaughlin
	JTSC	KB	Jury Trial Set - 01/14/2008	Michael McLaughlin
	HRSC	KB	Event Scheduled - Pre-Trial Conference - 01/04/2008	Michael McLaughlin
8/20/2007		KB	Scheduling Order	Michael McLaughlin
8/31/2007		RC	State/City Request for Discovery	Michael McLaughlin
9/25/2007	REQD	KP	State/City Response to Disc. Req.	Michael McLaughlin
1/4/2008	CONT	KB	Pre-Trial Conference	Michael McLaughlin
	JTSC	KB	Jury Trial Set - 06/16/2008	Michael McLaughlin
	HRSC	KB	Event Scheduled - Pre-Trial Conference - 06/04/2008	Michael McLaughlin
		KB	Amended Sch. Order	Michael McLaughlin
6/4/2008	DCHH	CCBROWKM	Hearing result for Pretrial Conference held on 06/04/2008 10:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50	Michael McLaughlin
6/6/2008	HRVC	CCBROWKM	Hearing result for Jury Trial held on 06/16/2008 09:00 AM: Hearing Vacated	Michael McLaughlin
	HRSC	CCBROWKM	Hearing Scheduled (Jury Trial 08/18/2008 09:00 AM)	Michael McLaughlin

00004

State of Idaho vs. Filip Aka Danney Vog

Date	Code	User		Judge
6/6/2008	HRSC	CCBROWKM	Hearing Scheduled (Pretrial Conference 08/06/2008 10:00 AM)	Michael McLaughlin
	SCHE	CCBROWKM	Scheduling Order	Michael McLaughlin
8/5/2008	STIP	TCBUCKAD	Stipulation for Sub of Counsel/Cox	Michael McLaughlin
	MOTN	TCBUCKAD	Motion to Continue PT and JT	Michael McLaughlin
	MOTN	TCBUCKAD	Motion to Shorten Time	Michael McLaughlin
	AFFD	TCBUCKAD	Affidavit of Cox in Support	Michael McLaughlin
	AFFD	TCBUCKAD	Affidavit of Danney in Support	Michael McLaughlin
	MOTN	TCBUCKAD	Motion for Extension of Time to File PT Motions	Michael McLaughlin
	MOTN	TCBUCKAD	Motion to Suppress Evidence	Michael McLaughlin
8/6/2008	DCHH	CCBROWKM	Hearing result for Pretrial Conference held on 08/06/2008 10:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50	Michael McLaughlin
	HRVC	CCBROWKM	Hearing result for Jury Trial held on 08/18/2008 09:00 AM: Hearing Vacated	Michael McLaughlin
	HRSC	CCBROWKM	Hearing Scheduled (Jury Trial 12/15/2008 09:00 AM)	Michael McLaughlin
	HRSC	CCBROWKM	Hearing Scheduled (Hearing Scheduled 10/02/2008 09:00 AM)	Michael McLaughlin
8/8/2008	SCHE	CCBROWKM	Third Amended Scheduling Order	Michael McLaughlin
9/3/2008	MISC	TCBUCKAD	Memo in Support of Motion to Suppress	Michael McLaughlin
	AFFD	TCBUCKAD	Affidavit of Defend in Support	Michael McLaughlin
	AFFD	TCBUCKAD	Affidavit of Ostman in Support	Michael McLaughlin
9/30/2008	MISC	CCBROWKM	State's Objection and Memorandum in Response to Motion to Suppress	Michael McLaughlin
10/1/2008	AFFD	TCKELLHL	Supplemental Affidavit of Filip Danney in Support of Motion to Suppress Evidence	Michael McLaughlin
10/2/2008	DCHH	CCBROWKM	Hearing result for Hearing Scheduled held on 10/02/2008 09:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 500	Michael McLaughlin
10/8/2008	RSDS	TCURQUAM	State/City Response to Discovery/Addendum	Michael McLaughlin
10/14/2008	TRAN	CCBROWKM	Transcript Filed - Motion to Suppress Hearing	Michael McLaughlin
11/12/2008	MISC	TCURQUAM	Post-Hearing Memo in Support of Motion to Suppress	Michael McLaughlin
11/18/2008	MISC	TCURQUAM	State Post-Hearing Memo in Response to Defend Motion to Suppress	Michael McLaughlin
11/24/2008	MISC	TCKELLHL	Rebuttal to State's Post-Hearing Memorandum	Michael McLaughlin
12/8/2008	HRSC	CCBROWKM	Hearing Scheduled (Pretrial Conference 12/10/2008 10:00 AM)	Michael McLaughlin

00005

Date: 5/21/2009

4th Judicial District Court - Ada County

User: CCTHIEBJ

Time: 04:46 PM

ROA Report

Page 3 of 4

Case: CR-FE-2007-0000963 Current Judge: Michael McLaughlin

Defendant: Danney, Filip Aka Vog

State of Idaho vs. Filip Aka Danney Vog

Date	Code	User		Judge
12/8/2008	NOTC	CCBROWKM	Notice of Hearing 12/10/08 at 10am	Michael McLaughlin
	DEOP	DCABBOSM	Memorandum Decision on Defendant's Motion to Suppress	Michael McLaughlin
12/10/2008	HRVC	CCBROWKM	Hearing result for Jury Trial held on 12/15/2008 09:00 AM: Hearing Vacated	Michael McLaughlin
	DCHH	CCBROWKM	Hearing result for Pretrial Conference held on 12/10/2008 10:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50	Michael McLaughlin
	HRSC	CCBROWKM	Hearing Scheduled (Hearing Scheduled 12/19/2008 02:30 PM)	Michael McLaughlin
12/12/2008	MOTN	TCURQUAM	Motion for Disqualification Under Criminal Rule 35	Michael McLaughlin
12/19/2008	DCHH	CCBROWKM	Hearing result for Hearing Scheduled held on 12/19/2008 02:30 PM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50	Michael McLaughlin
12/22/2008	HRSC	CCBROWKM	Hearing Scheduled (Entry of Plea 12/31/2008 09:00 AM)	Michael McLaughlin
12/31/2008	DCHH	CCBROWKM	Hearing result for Entry of Plea held on 12/31/2008 09:00 AM: District Court Hearing Held Court Reporter: Hohenleitner Number of Transcript Pages for this hearing estimated: less than 50	Michael McLaughlin
	HRSC	CCBROWKM	Hearing Scheduled (Sentencing 02/25/2009 03:00 PM)	Michael McLaughlin
	PLEA	CCBROWKM	A Plea is entered for charge: - GT (I37-2732(B)(A)(1)(A) Trafficking in Marijuana)	Michael McLaughlin
	GPFM	CCBROWKM	Guilty plea form	Michael McLaughlin
1/5/2009	NOTC	TCBULCEM	Notice of intent to cooperate with the completion of the pre-sentence investigation report	Michael McLaughlin
1/6/2009	ORDR	CCBROWKM	Order for Substance Abuse Evaluation	Michael McLaughlin
1/27/2009	NOTC	TCASPIRA	Notice of change of firm and address	Michael McLaughlin
2/23/2009	MOTN	TCRAMISA	Motion for Stay of Execution on Judgment	Michael McLaughlin
2/25/2009	DCHH	CCBROWKM	Hearing result for Sentencing held on 02/25/2009 03:00 PM: District Court Hearing Held Court Reporter: Tardiff Number of Transcript Pages for this hearing estimated: less than 50	Michael McLaughlin
	HRSC	CCBROWKM	Hearing Scheduled (Sentencing 04/08/2009 02:00 PM)	Michael McLaughlin
	CONT	CCBROWKM	Continued (Sentencing 04/08/2009 03:00 PM)	Michael McLaughlin
3/2/2009	NOHG	TCBULCEM	Notice Of Hearing	Michael McLaughlin

00006

Date: 5/21/2009

Fourth Judicial District Court - Ada County

User: CCTHIEBJ

Time: 04:46 PM

ROA Report

Page 4 of 4

Case: CR-FE-2007-0000963 Current Judge: Michael McLaughlin

Defendant: Danney, Filip Aka Vog

State of Idaho vs. Filip Aka Danney Vog

Date	Code	User	Judge
4/8/2009	DCHH	CCBROWKM	Hearing result for Sentencing held on 04/08/2009 03:00 PM: District Court Hearing Held Court Reporter: Omsberg Number of Transcript Pages for this hearing estimated: less than 50
	FIGT	CCBROWKM	Finding of Guilty (I37-2732(B)(A)(1)(A) Trafficking in Marijuana)
	JAIL	CCBROWKM	Sentenced to Jail or Detention (I37-2732(B)(A)(1)(A) Trafficking in Marijuana) Confinement terms: Penitentiary determinate: 42 months. Penitentiary indeterminate: 9 years.
	STAT	CCBROWKM	STATUS CHANGED: closed pending clerk action
	SNPF	CCBROWKM	Sentenced To Pay Fine 15000.00 charge: (I37-2732(B)(A)(1)(A) Trafficking in Marijuana)
	JAIL	CCBROWKM	Sentenced to Jail or Detention (I37-2732(B)(A)(1)(A) Trafficking in Marijuana) Confinement terms: Credited time: 12 days. Penitentiary determinate: 42 months. Penitentiary indeterminate: 9 years.
4/9/2009	ORDR	CCBROWKM	Order on Stay of Execution
	APSC	TCURQUAM	Appealed To The Supreme Court
4/10/2009	JDMT	DCABBOSM	Judgment of Conviction
4/13/2009	ORDR	CCBROWKM	Order for Restitution & Judgment
5/6/2009	MISC	TCURQUAM	Defend Motion to Allow for Out of District/State Travel
5/8/2009	MISC	TCRAMISA	Objection to Motion to Allow for out of District/State Travel
	ORDR	CCBROWKM	Order - Motion to allow out of District Travel Denied

000007

DR # 07-006699

NO. 1121 FILED
AM. 11:21 PM

MAY 23 2007

J. DAVID NAVARRO, Clerk
By S. MCCORMACK
DEPUTY

GREG H. BOWER

Ada County Prosecuting Attorney

Roger Bourne

Deputy Prosecuting Attorney

200 W. Front Street, Room 3191

Boise, Idaho 83702

Telephone: (208) 287-7700

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

FILIP DANNEY, *AKA*
VOGELPOHL
Defendant.

Case No. M0706740

COMPLAINT

Danney's DOB [REDACTED]

Danney's SSN: [REDACTED]

PERSONALLY APPEARED Before me this 23 day of May 2007, Roger Bourne, Deputy Prosecuting Attorney, in and for the County of Ada, State of Idaho, who, being first duly sworn, complains and says: that FILIP DANNEY, *AKA VOGELPOHL*, on or about the 22nd day of May, 2007, in the County of Ada, State of Idaho, did commit the crime of TRAFFICKING IN MARIJUANA, FELONY, I.C. §37-2732B(a)(1) as follows:


AKA VOGEL POHL

That the Defendant, FILIP DANNEY, on or about the 22nd day of May, 2007, in the County of Ada, State of Idaho, did knowingly possess five (5) or more pounds of marijuana, a Schedule I(d)(19) controlled substance.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.

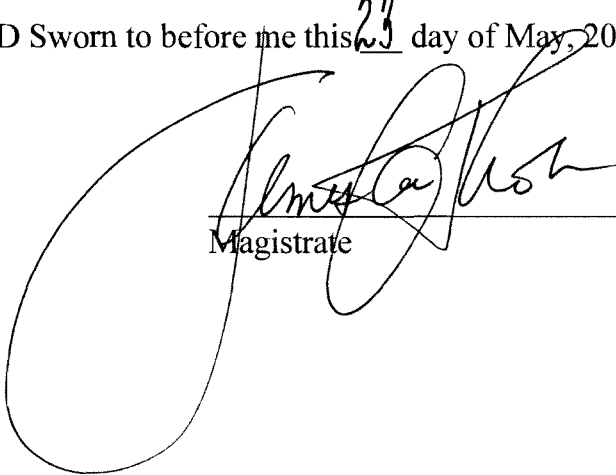
Said Complainant therefore prays that a Warrant issue for the arrest of the Defendant and that FILIP DANNEY, may be dealt with according to law.

GREG H. BOWER
Ada County Prosecutor



Roger Bourne
Deputy Prosecuting Attorney

SUBSCRIBED AND Sworn to before me this 23 day of May, 2007.



Magistrate

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION

PROBABLE CAUSE FORM

STATE OF IDAHO

CASE NO.

M0706740

CLERK

MARILYN EDWARDS

DATE

05/23/2007 TIME 11⁰¹

TOXIMETER

CASE ID.

Cawthon 052307 BEG. 110130

END 110519

vs.

Philip Danney aka Vogel Pahl

PROSECUTOR

Roger Bourne

COMPLAINING WITNESS

JUDGE

- ☐ BIETER
☒ CAWTHON
☐ COMSTOCK
☐ DAY
☐ DENNARD
☐ GARDUNIA
☐ HANSEN
☐ HARRIGFELD
☐ MacGREGOR-IRBY
☐ _____
☐ _____

- ☐ MANWEILER
☐ McDANIEL
☐ MINDER
☐ OTHS
☐ REARDON
☐ SCHMIDT
☐ SWAIN
☐ WATKINS

STATUS

- ☒ STATE SWORN
☒ PC FOUND
☒ COMPLAINT SIGNED
☐ AMENDED COMPLAINT SIGNED
☐ NO PC FOUND
☐ EXONERATE BOND
☐ SUMMONS TO BE ISSUED
☐ WARRANT ISSUED
☐ BOND SET \$ _____
☐ NO CONTACT

D.R. # _____

- ☐ DISMISS CASE
☒ IN CUSTODY

COMMENTS

☐ AGENT'S WARRANT

☐ RULE 5 (b)

☐ FUGITIVE

00010

#394

White
prose

141549

1 Million

Advises def charge
will hire attorney

P/H 6-6-07 @ 8:30
#216

141940

JUN 04 2007

J. DAVID NAVARRO, Clerk
By R. CALLAHAN
DEPUTY

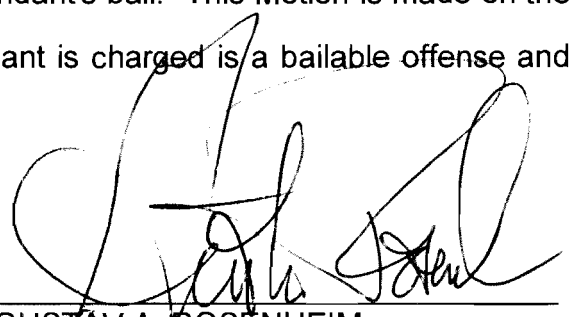
GUSTAV A. ROSENHEIM
ATTORNEY AT LAW
960 BROADWAY, STE. 210
P.O. BOX 966
BOISE, IDAHO 83701
TELEPHONE (208) 343-1171
FACSIMILE (208) 338-1273
IDAHO STATE BAR #2791
ATTORNEY FOR DEFENDANT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
)	
Plaintiff,	)	CASE NO. M0706740
)	
vs.)	
	)	MOTION FOR BOND
	)	REDUCTION
FILIP DANNEY;)	
)	
Defendant.)	
_____)	

COMES NOW, the Defendant, FILIP DANNEY, by and through his attorney of record, Gustav A. Rosenheim, pursuant to ICR 46 and hereby moves this Honorable Court for its entry of its Order reducing the Defendant's bail. This Motion is made on the grounds that the offense with which the Defendant is charged is a bailable offense and the bail now set is excessive.

DATED this 4 day of June, 2007.



GUSTAV A. ROSENHEIM

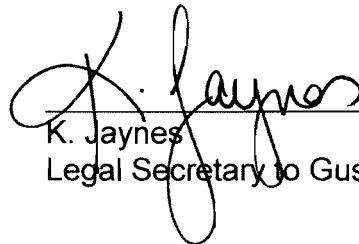
PL

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of June, 2007, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Ada County Prosecutor
200 W. Front Street
Boise, Idaho 83702

- ☐ U.S. Mail
- ☒ Hand Delivered
- ☐ Overnight Mail
- ☐ Telecopy (Fax)



K. Jaynes
Legal Secretary to Gustav A. Rosenheim

CJ3BMIN
CCEDWARM

ADA COUNTY MAGISTRATE MINUTES

6/04/2007
14:59:22

SCHEDULED EVENT:
Preliminary Hearing

JUDGE:
Michael J. Oths

CLERK:
Marilyn Edwards

DATE: 06/06/2007 TIME: 8:30

COURT REPORTER:

TAPE NO: Oths 060607

PR/AGY: AC

PROS:

P.D./ATTORNEY

Monty Beretz
Hus Pasenheim

DANNEY FILIP AKA VOGELPOHL

M0706740.01

SSN

DOB

1 TRAFFICKIN S 37 2732 BA1 F

090400 Case Called Def: ☒ Present ☐ Not Pres. ☒ In Custody
☐ Advised of Rights ☐ Waived Rts ☐ PD Appointed ☐ Waived Atty
☐ Guilty Plea/PV Admit ☐ N/G Plea ☐ Advise Subsq Penalty
☐ Bond \$ 1 million ☐ ROR ☐ Pay/Stay ☐ Payment Agr

*

*

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*

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*

*

*

*

*

*

1- Reg SQ

no Lab.

2- no reg SQ.

Stip to Reduce ^{Bond} \$100,000

Reset 6/28/07 @ 830am

090612. * Finish () Release Defendant

00014

War# M0706751 Def# 01 Seq# 01 Type A Docket#

Rev: 3/97

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
STATE OF IDAHO, ADA COUNTY, MAGISTRATE DIVISION

Criminal Court - Traffic Division

200 W. Front Street

Boise, Idaho 83702-7300

FILED
A.M. 9:05 P.M.

JUN 6 2007

J. DAVID NAYARR, CLERK
Marilyn Edwards
DEPUTY

MEMO FOR THE RECORD

Date: 6/6/07, 20.

Case Number: MO 706740

Defendant: Philip Hanney

Subject: Step of Parties
Bond Reduced to \$100,000⁰⁰

This Case only

JUDGE: [Signature]
Date: 6/6/07

CJ3BMIN
CCEDWARM

ADA COUNTY MAGISTRATE MINUTES

6/26/2007
8:51:07

SCHEDULED EVENT:
Preliminary Hearing

JUDGE:
Michael J. Oths

CLERK:
Marilyn Edwards

DATE: 06/28/2007 TIME: 8:30

COURT REPORTER:

TAPE NO: Oths 062807

PR/AGY: AC

PROS:

P.D./ATTORNEY

Bryan Naugle
Dus Rasenhein

DANNEY FILIP AKA VOGELPOHL

M0706740.01

SSN

DOB

1 TRAFFICKIN S 37 2732 BA1 F

091113

Case Called Def:

☒ Present

☐ Not Pres.

☐ In Custody

☐ Advised of Rights

☐ Waived Rts

☐ PD Appointed

☐ Waived Atty

☐ Guilty Plea/PV Admit

☐ N/G Plea

☐ Advise Subsq Penalty

☒ Bond \$ 100,000

☐ ROR

☐ Pay/Stay

☐ Payment Agr

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2- 1st funeral to attend
Reg SO.

1- No try

Reset 7/23/07 @ 830am

091312

* Finish () Release Defendant

00016

War# M0706745 Def# 01 Seq# 01 Type B Docket#

Rev: 3/97

CJ3BMIN
CCEDWARM

ADA COUNTY MAGISTRATE MINUTES

7/19/2007
8:24:57

SCHEDULED EVENT:
Preliminary Hearing

JUDGE:
Michael J. Oths

CLERK:
Marilyn Edwards

DATE: 07/23/2007 TIME: 8:30

COURT REPORTER:

TAPE NO: Oths 072307

PR/AGY: AC

PROS:

P.D./ATTORNEY

Scott Ekson
Gus Rosenheim

DANNEY FILIP AKA VOGELPOHL

M0706740.01

SSN

DOB

1 TRAFFICKIN S 37 2732 BA1 F

091504 Case Called Def: ☒ Present ☐ Not Pres. ☐ In Custody
☐ Advised of Rights ☐ Waived Rts ☐ PD Appointed ☐ Waived Atty
☐ Guilty Plea/PV Admit ☐ N/G Plea ☐ Advise Subsgt Penalty
☒ Bond \$ 100,000 ☐ ROR ☐ Pay/Stay ☐ Payment Agr

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091714

* Finish () Release Defendant

00017

War# M0706745 Def# 01 Seq# 01 Type B Docket#

Rev: 3/97

NO. 916 FILED
A.M. _____ P.M. _____
JUL 23 2007
J. DAVID NAVARRO, CLERK
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Tessie Buttram
Deputy Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
FILIP DANNEY aka VOGELPOHL,)
Defendant.)
_____)

#0700963
Case No. M0706740
COMMITMENT
Defendant's DOB: [REDACTED]
Defendant's SSN: [REDACTED]

THE ABOVE NAMED DEFENDANT, FILIP DANNEY aka VOGELPOHL,
having been brought before this Court for a Preliminary Examination on the 23 day of
July, 2007, on a charge that the Defendant on or about the 22nd day of May
2007, in the County of Ada, State of Idaho, did commit the crime of: TRAFFICKING IN
MARIJUANA, FELONY, I.C. §37-2732B(a)(1) as follows:

That the Defendant, FILIP DANNEY aka VOGELPOHL, on or about the 22nd day of May, 2007, in the County of Ada, State of Idaho, did knowingly possess five (5) or more pounds of marijuana, a Schedule I(d)(19) controlled substance.

The Defendant having so appeared and having had/having waived preliminary examination, the Court sitting as a Committing Magistrate finds that the offense charged as set forth has been committed in Ada County, Idaho, and that there is sufficient cause to believe that the Defendant is guilty of committing the offense as charged.

WHEREFORE, IT IS ORDERED that the Defendant be held to answer to the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, to the charge herein set forth. Bail is set in the sum of \$ 100,000 -.

DATED this 23 day of July, 2007.



MAGISTRATE

JUL 24 2007

J. DAVID NAVARRO, Clerk
By R. CALLAHAN
DEPUTY

GUSTAV A. ROSENHEIM
ATTORNEY AT LAW
960 BROADWAY, STE. 210
P.O. BOX 966
BOISE, IDAHO 83701
TELEPHONE (208) 343-1171
FACSIMILE (208) 338-1273
IDAHO STATE BAR #2791

ATTORNEY FOR DEFENDANT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff,

vs.

FILIP DANNEY,

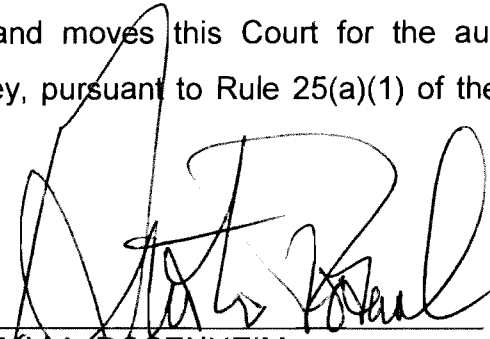
Defendant.

46762963
CASE NO. M0706740

MOTION TO DISQUALIFY

COMES NOW the above-named Defendant, FILIP DANNEY, by and through his attorney of record, Gustav A. Rosenheim, and moves this Court for the automatic disqualification of the Honorable Judge Copsey, pursuant to Rule 25(a)(1) of the Idaho Rules of Criminal Procedure.

DATED This 23 day of July, 2007.


GUSTAV A. ROSENHEIM
Attorney for Defendant

MOTION TO DISQUALIFY

- Page 1

00020

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of July, 2007, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Ada County Prosecutor
200 W. Front Street
Boise, Idaho 83702

- ☐ U.S. Mail
☒ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

Honorable Judge Cheri Copsey
200 W. Front Street
Boise, Idaho 83702

- ☐ U.S. Mail
☒ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)


K. Jaynes

Legal Secretary to Gustav A. Rosenheim

NO. _____
A.M. _____ P.M. _____

JUL 25 2007

J. DAVID NAVARRO, Clerk
By R. CALLAHAN
DEPUTY

GREG H. BOWER

Ada County Prosecuting Attorney
200 W. Front Street, Room 3191
Boise, Idaho 83702
Phone: 287-7700
Fax: 287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
FILIP DANNEY aka VOGELPOHL,)
)
Defendant.)
_____)

Case No. H0700963

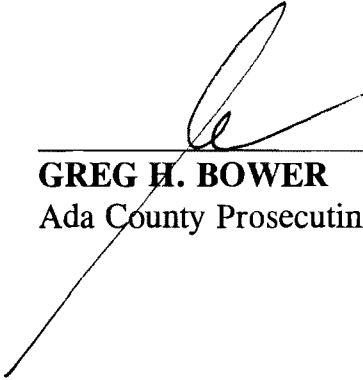
I N F O R M A T I O N

Defendant's DOB: [REDACTED]
Defendant's SSN: [REDACTED]

GREG H. BOWER, Prosecuting Attorney, in and for the County of Ada, State of Idaho, who in the name and by the authority of the State, prosecutes in its behalf, comes now into District Court of the County of Ada, and states that FILIP DANNEY aka VOGELPOHL is accused by this Information of the crime of: TRAFFICKING IN MARIJUANA, FELONY, I.C. §37-2732B(a)(1) which crime was committed as follows:

That the Defendant, FILIP DANNEY aka VOGELPOHL, on or about the 22nd day of May, 2007, in the County of Ada, State of Idaho, did knowingly possess five (5) or more pounds of marijuana, a Schedule I(d)(19) controlled substance.

All of which is contrary to the form, force and effect of the statute in such case and against the peace and dignity of the State of Idaho.



GREG H. BOWER
Ada County Prosecuting Attorney

RECEIVED

JUL 24 2007

Ada County Clerk

JUL 20 2007

J. DAVID HANSEN, CLERK
By J. M. JENKINS
CLERK

GUSTAV A. ROSENHEIM
ATTORNEY AT LAW
960 BROADWAY, STE. 210
P.O. BOX 966
BOISE, IDAHO 83701
TELEPHONE (208) 343-1171
FACSIMILE (208) 338-1273
IDAHO STATE BAR #2791

ATTORNEY FOR DEFENDANT

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
FILIP DANNEY,)
)
Defendant.)
_____)

CASE NO. ^{HO7009163}~~M0706740~~
ORDER TO DISQUALIFY

IT IS SO ORDERED and this does hereby Order, pursuant to Rule 25(a)(1) of the Idaho Rules of Criminal Procedure, that the Honorable Judge Copsey is automatically disqualified from the above-entitled case.

DATED This 30th day of July, 2007.

Cheri Copsey
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 30 day of July, 2007, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Ada County Prosecutor
200 W. Front Street
Boise, Idaho 83702

- ☐ U.S. Mail
☒ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

Honorable Judge Cheri Copsey
200 W. Front Street
Boise, Idaho 83702

- ☐ U.S. Mail
☒ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)

Gustav A. Rosenheim
PO Box 966
Boise, Idaho 83701

- ☒ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)



clerk

Session: mclaughlin081707
Session Date: 2007/08/17
Judge: McLaughlin, Michael R.
Reporter: Hohenleitner, Tammy

Division: DC
Session Time: 08:25

Courtroom: CR507

Clerk(s):
Brown, Kristin

State Attorneys:
Alidjani, Fafa
Durn, Shawna
Haws, Joshua

Public Defender(s):
DeAngelo, Michael
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0003

Case Number: Arraignments
Plaintiff:
Plaintiff Attorney:
Defendant: All
Co-Defendant(s):
Pers. Attorney:
State Attorney:
Public Defender: Steveley, Craig

2007/08/17

09:09:14 - Operator

Recording:

09:09:14 - New case

, All

09:09:31 - Judge: McLaughlin, Michael R.

advice of rights to Stelly, Clayton, Dobbs, Danney, Jennings
, Olson

09:12:23 - Operator

Stop recording:

Session: mclaughlin081707
Session Date: 2007/08/17
Judge: McLaughlin, Michael R.
Reporter: Hohenleitner, Tammy

Division: DC
Session Time: 08:25

Courtroom: CR507

Clerk(s):
Brown, Kristin

State Attorneys:
Alidjani, Fafa
Durn, Shawna
Haws, Joshua

Public Defender(s):
DeAngelo, Michael
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0006

Case Number: H0700963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Co-Defendant(s):
Pers. Attorney: Rosenheim, Gus
State Attorney: Haws, Joshua
Public Defender: Steveley, Craig

2007/08/17

09:21:55 - Operator
Recording:
09:21:55 - New case
Danney, Filip
09:22:09 - Defendant: Danney, Filip
present on bond
09:22:15 - State Attorney: Haws, Joshua
present
09:22:25 - Pers. Attorney: Rosenheim, Gus
present
09:22:52 - Judge: McLaughlin, Michael R.
possible penalties
09:26:21 - Defendant: Danney, Filip
understands penalties, understands rights
09:26:31 - Pers. Attorney: Rosenheim, Gus
NG plea entered
09:26:44 - Pers. Attorney: Rosenheim, Gus
will waive speedy trial rights
09:27:06 - Judge: McLaughlin, Michael R.
will set 3d JT 1/14/08 at 9am, PTC 1/4/08 at 10am

00027

09:27:45 - Judge: McLaughlin, Michael R.
motion 11/30/07, discovery 11/23/07
09:28:15 - Judge: McLaughlin, Michael R.
speaks to defendant
09:28:20 - Operator
Stop recording:

Session: mclaughlin010408
Session Date: 2008/01/04
Judge: McLaughlin, Michael R.
Reporter: Hohenleitner, Tammy

Division: DC
Session Time: 08:41

Courtroom: CR507

Clerk(s):
Brown, Kristin

State Attorneys:
Atwood, Chris
Haws, Joshua

Public Defender(s):
Bublitz, Jessica
Odessey, Edward
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0006

Case Number: H0700963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Additional audio and annotations can be found in case: 0007.
Co-Defendant(s):
Pers. Attorney:
State Attorney: Haws, Joshua
Public Defender: Bublitz, Jessica

2008/01/04

09:58:20 - Operator
Recording:
09:58:20 - New case
Danney, Filip
09:58:43 - Operator
Stop recording: (Bench)

Case ID: 0007

Case Number: H0700963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Previous audio and annotations can be found in case: 0006.
Co-Defendant(s):
Pers. Attorney: Rosenheim, Gus
State Attorney: Haws, Joshua
Public Defender: Bublitz, Jessica

09:59:27 - Operator
Recording:
09:59:27 - Recall
Danney, Filip
09:59:32 - Defendant: Danney, Filip
present on bond
09:59:37 - State Attorney: Haws, Joshua
present
09:59:42 - Pers. Attorney: Rosenheim, Gus
present, needs additional time
09:59:56 - Judge: McLaughlin, Michael R.
def has waived speedy trial rights, will vacate trial
10:00:33 - Judge: McLaughlin, Michael R.
will reset trial for 6/16/08 at 9am, 3d JT
10:01:07 - Judge: McLaughlin, Michael R.
PTC reset to 6/4/08 at 10am
10:01:38 - Judge: McLaughlin, Michael R.
follow rules for all other deadlines
10:02:05 - Operator
Stop recording:

Session: McLaughlin060408
Session Date: 2008/06/04
Judge: McLaughlin, Michael R.
Reporter: Hohenleitner, Tammy

Division: DC
Session Time: 08:41

Courtroom: CR507

Clerk(s):
Brown, Kristin

State Attorneys:
Atwood, Christopher
Bennetts, Jan
Duggan, Barbara
Haws, Joshua

Public Defender(s):
Bublitz, Jessica
Cahill, August
Odessey, Edward

Prob. Officer(s):

Court interpreter(s):

Case ID: 0023

Case Number: CRFE07-963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Co-Defendant(s):
Pers. Attorney:
State Attorney: Haws, Joshua
Public Defender:

2008/06/04

10:55:32 - Operator
Recording:
10:55:32 - New case
Danney, Filip
10:55:51 - Defendant: Danney, Filip
present on bond
10:55:56 - Judge: McLaughlin, Michael R.
will reset trial in this case
10:56:20 - Defendant: Danney, Filip
will waive speedy trial rights
10:56:56 - Judge: McLaughlin, Michael R.
will reset to 8/18/08, PTC 8/6/08 at 10am
10:57:09 - Operator
Stop recording:

00031

NO. _____
A.M. _____ P.M. 440

AUG 05 2008

J. DAVID NAVARRO, Clerk
By A. BUCK
DEPUTY

JON R. COX
DAVISON, COPPLE, COPPLE & COX
Washington Mutual Capitol Plaza, Suite 600
Attorneys at Law
199 North Capitol Boulevard
Post Office Box 1583
Boise, Idaho 83701
Telephone: (208) 342-3658
Facsimile: (208) 386-9428
ISB No. 4487

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	Case No. CR FE 2007-000963
Plaintiff,)	
)	
vs.	)	MOTION TO CONTINUE
	)	PRE-TRIAL AND TRIAL
FILIP DANNEY aka VOGELPOHL,	)	SETTINGS
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Filip Danney, by and through his attorney of record, Jon R. Cox of the firm of Davison, Copple, Copple & Cox, and moves this Court for an order continuing

MOTION TO CONTINUE PRE-TRIAL AND TRIAL -- 1

ORIGINAL
00032

the Pre-Trial currently set in this matter for August 6, 2008 at 10:00 a.m. and Trial for August 18, 2008, beginning at 9:00 a.m. based upon the following reasons:

1. Defendant had been working with detectives and the prosecution and had been providing information to them.
2. Defendant learned in July that the prosecutors were no longer willing to work with him and advised by his then counsel that the prosecution would be seeking the minimum mandatory sentence of three years imprisonment on the underlying charge. Upon learning this, the Defendant was advised to seek out a second opinion regarding his representation and how best to proceed with his defense.
3. Defendant then consulted with and then hired new counsel to represent him in this matter.
4. Defendant's new counsel is just appearing in this matter and believes there are issues that should be addressed prior to this matter proceeding to trial.

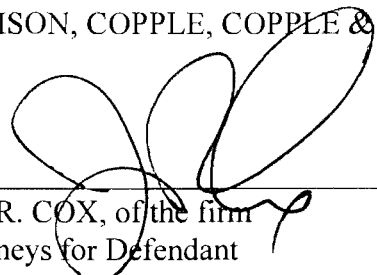
This motion is made and based on the records and files herein and the affidavits of Filip Danny and Jon R. Cox enclosed herein.

Oral argument is requested.

DATED this 5th day of August 2008.

DAVISON, COPPLE, COPPLE & COX

By:



JON R. COX, of the firm
Attorneys for Defendant

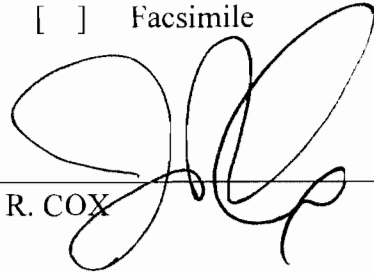
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of August 2008, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecuting Attorney's Office
200 West Front Street, Room 366
Boise, Idaho 83702

☐ U.S. Mail, postage prepaid
☒ Hand Delivered
☐ Facsimile

JON R. COX

A handwritten signature in black ink, appearing to read 'JRC', is written over a horizontal line.

NO. _____
A.M. _____ P.M. 440

AUG 05 2008

J. DAVID NAVARRO, Clerk
By A. BUCK
DEPUTY

JON R. COX
DAVISON, COPPLE, COPPLE & COX
Washington Mutual Capitol Plaza, Suite 600
Attorneys at Law
199 North Capitol Boulevard
Post Office Box 1583
Boise, Idaho 83701
Telephone: (208) 342-3658
Facsimile: (208) 386-9428
ISB No. 4487

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
FILIP DANNEY aka VOGELPOHL,)
)
Defendant.)
_____)

Case No. CR FE 2007-000963

**DEFENDANT'S MOTION TO SHORTEN
TIME**

COMES NOW the Defendant, Filip Danney, by and through his attorney of record, Jon R. Cox of the firm of Davison, Copple, Copple & Cox, and pursuant Idaho Criminal Rule 12(d) moves this Court for its order shortening time for hearing on Defendant's Motion to Continue Pre-Trial Conference and Jury Trial and Motion for Extension of Time for Filing Pre-Trial Motions.

DEFENDANT'S MOTION TO SHORTEN TIME -- 1

ORIGINAL
00025

This Motion is made and based on the records and files herein.

DATED this 5th day of August 2008.

DAVISON, COPPLE, COPPLE & COX

By:



JON R. COX, of the firm

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of August 2008, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702

☐ U.S. Mail, postage prepaid
☒ Hand Delivery
☐ Facsimile (287-7709)



JON R. COX

NO. _____
A.M. _____ P.M. 440

AUG 05 2008

J. DAVID NAVARRO, Clerk
By A. BUCK
DEPUTY

JON R. COX
DAVISON, COPPLE, COPPLE & COX
Washington Mutual Capitol Plaza, Suite 600
Attorneys at Law
199 North Capitol Boulevard
Post Office Box 1583
Boise, Idaho 83701
Telephone: (208) 342-3658
Facsimile: (208) 386-9428
ISB No. 4487

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
FILIP DANNEY aka VOGELPOHL,)
)
Defendant.)
_____)

Case No. CR FE 2007-000963

**MOTION FOR EXTENSION OF TIME
FOR FILING PRE-TRIAL MOTIONS**

COMES NOW the Defendant, Filip Danney, by and through his attorney of record, Jon R. Cox of the firm Davison, Copple, Copple & Cox, of Boise, Idaho, and moves this Court, pursuant to Idaho Criminal Rules, Rule 1 and Rule 12(d), for an Order extending the time for filing of pre-trial motions. This Motion is based on the following:

MOTION FOR EXTENSION OF TIME FOR FILING PRE-TRIAL MOTIONS B 1

ORIGINAL
00027

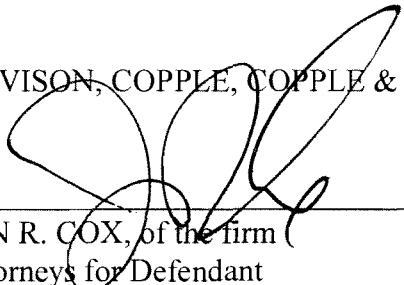
1. Defendant had been working with detectives and the prosecution and had been providing information to them.
2. Defendant learned in July that the prosecutors and detectives were no longer willing to work with him and Defendant's counsel was advised that the state would be seeking the minimum mandatory sentence of three (3) years in the state penitentiary for the underlying charge. Upon learning this, the Defendant was advised to seek out a second opinion regarding his representation and how best to proceed with his defense.
3. Defendant then consulted with and hired new counsel to represent him in this matter.
4. Defendant's new counsel has just been retained in this matter. Upon a review of the documentation provided by the Defendant and his former counsel, new counsel believes that a motion to suppress evidence based on an alleged illegal search should be brought before the court. This was not addressed previously based on previous counsel trying to work with the prosecutors and detectives in the manner they had requested and relied on the State's position that a resolution could be reached upon satisfactory information being provided by the Defendant.

This motion is made and based on the records and files herein and the affidavits of Filip Danney and Jon R. Cox filed concurrently herewith.

DATED this 5th day of August 2008.

DAVISON, COPPLE, COPPLE & COX

By:



JON R. COX, of the firm
Attorneys for Defendant

MOTION FOR EXTENSION OF TIME FOR FILING PRE-TRIAL MOTIONS B 2

00038

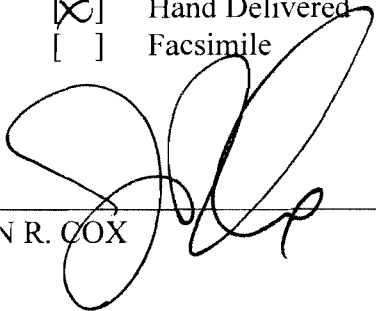
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of August 2008, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecuting Attorney's Office
200 West Front Street, Room 366
Boise, Idaho 83702

☒ U.S. Mail, postage prepaid
☒ Hand Delivered
☐ Facsimile

JON R. COX



NO. _____
A.M. _____ P.M. 440

AUG 05 2008

J. DAVID NAVARRO, Clerk
By A. BUCK
DEPUTY

JON R. COX
DAVISON, COPPLE, COPPLE & COX
Washington Mutual Capitol Plaza, Suite 600
Attorneys at Law
199 North Capitol Boulevard
Post Office Box 1583
Boise, Idaho 83701
Telephone: (208) 342-3658
Facsimile: (208) 386-9428
LSB No. 4487

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	Case No. CR FE 2007-000963
Plaintiff,)	
)	
vs.	)	DEFENDANT'S MOTION TO
	)	SUPPRESS EVIDENCE
FILIP DANNEY aka VOGELPOHL,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Filip Danney, by and through his attorney of record, Jon R. Cox of the firm of Davison, Copple, Copple & Cox, and pursuant to Idaho Criminal Rule 12(b) and the Fifth and Fourteenth Amendments of the United States Constitution, moves this Court for an Order suppressing any evidence obtained by the State through the search of the Defendant's

DEFENDANTS' MOTION TO SUPPRESS EVIDENCE - 1

ORIGINAL

00040

vehicle during an alleged traffic stop on May 22, 2007, along with any evidence obtained by the State as a result of the information obtained in that illegal search.

The request for suppression of the above described evidence is based on the facts and information set forth in Memorandum in Support of Motion to Suppress Evidence filed subsequent hereto.

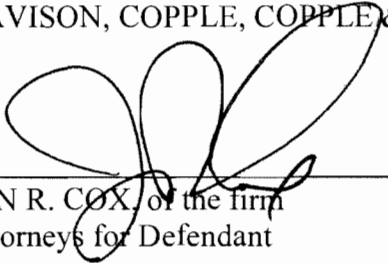
Wherefore, Defendant asks that this matter be set for hearing and it become incumbent upon the State to prove that the search of Defendant's vehicle was lawful.

This motion is made and based upon the records and files herein, the Memorandum in Support of Motion to Suppress and the affidavits of Filip Danney and Jon R. Cox filed subsequent hereto.

DATED this 5th day of August 2008.

DAVISON, COPPLE, COPPLE & COX

By:



JON R. COX of the firm
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of August 2008, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702

[] U.S. Mail, postage prepaid
[☒] Hand Delivery
[] Facsimile (287-7709)



JON R. COX

Session: McLaughlin080608

Division: DC

Courtroom: CR507

Session Date: 2008/08/06

Session Time: 08:30

Judge: McLaughlin, Michael R.

Reporter: Hohenleitner, Tammy

Clerk(s):

Brown, Kristin

State Attorneys:

Atwood, Christopher

Bennetts, Jan

Haws, Joshua

Public Defender(s):

Bublitz, Jessica

Odessey, Edward

Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0022

Case Number: CRFE07-963

Plaintiff:

Plaintiff Attorney:

Defendant: Danney, Filip

Co-Defendant(s):

Pers. Attorney: Cox, Jon

State Attorney: Haws, Joshua

Public Defender:

2008/08/06

10:57:32 - Operator

Recording:

10:57:32 - New case

Danney, Filip

10:57:37 - Defendant: Danney, Filip

present on bond

10:57:44 - Pers. Attorney: Cox, Jon

substituting in for Rosenheim

10:58:04 - Judge: McLaughlin, Michael R.

set for trial 8/18/08

10:58:20 - Judge: McLaughlin, Michael R.

revises motion to continue JT

10:58:32 - Pers. Attorney: Cox, Jon

as to motion to continue JT, speaks as to case history

10:59:38 - Judge: McLaughlin, Michael R.

speaks as to mandated min sentence 1 year?

11:00:37 - Pers. Attorney: Cox, Jon

possible motion to suppress

11:02:25 - Judge: McLaughlin, Michael R.

00042

is 3 year minimum sentence
11:02:48 - Pers. Attorney: Cox, Jon
def will waive speedy trial rights
11:02:58 - State Attorney: Haws, Joshua
prepared to go to JT on 8/18/08 - objection to resetting
11:04:19 - Judge: McLaughlin, Michael R.
speaks as to issue of continuing trial, allowing motion to s
uppress
11:08:36 - Judge: McLaughlin, Michael R.
will allow trial to vacate
11:09:26 - Judge: McLaughlin, Michael R.
speaks to defendant as to bail/trial setting
11:10:37 - Pers. Attorney: Cox, Jon
feels that motion to suppress may be dispositive of case
11:10:49 - Judge: McLaughlin, Michael R.
will give new trial date
11:11:12 - Defendant: Danney, Filip
will waive speedy trial rights
11:11:28 - Judge: McLaughlin, Michael R.
will set JT 12/15/08 at 9am, PTCn not yet set
11:12:20 - Judge: McLaughlin, Michael R.
will set motion to suppress 10/2/08 at 9am
11:13:02 - Operator
Stop recording:

00043

NO. _____
A.M. _____ FILED P.M. 3

SEP 03 2008

J. DAVID NAVARRO, Clerk
By A. URQUIDI
DEPUTY

JON R. COX
DAVISON, COPPLE, COPPLE & COX
Washington Mutual Capitol Plaza, Suite 600
Attorneys at Law
199 North Capitol Boulevard
Post Office Box 1583
Boise, Idaho 83701
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Facsimile: (208) 386-9428
ISB No. 4487

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
FILIP DANNEY aka VOGELPOHL,)
)
Defendant.)
_____)

Case No. CR FE 2007-000963

**AFFIDAVIT OF
JEANETTE OSTMAN**

STATE OF IDAHO)
) ss.
County of Ada)

JEANETTE OSTMAN, being first duly sworn upon oath, deposes and says:


I am the legal assistant for Jon R. Cox, counsel for the Defendant in the above entitled
action

AFFIDAVIT OF JEANETTE OSTMAN - 1

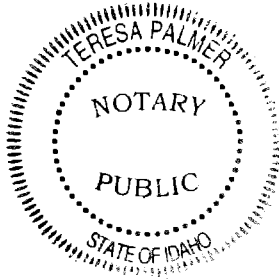
ORIGINAL
00044


1. I was provided with a copy of the audio recording provided by the prosecution and asked to transcribe the same. A copy of that audio is attached hereto as Exhibit "A."
2. I transcribed that audio to the best of my ability. That transcription with audio time stamping is attached hereto as Exhibit "B."

DATED this 3rd day of September 2008.


JEANETTE OSTMAN

SUBSCRIBED AND SWORN to before me this 3 day of September 2008.



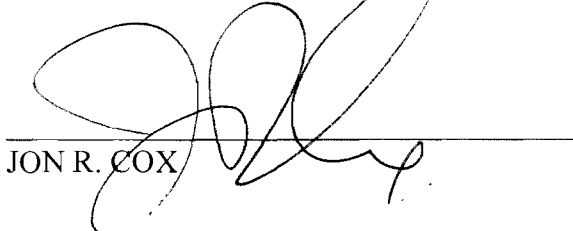

NOTARY PUBLIC FOR IDAHO
Residing at Boise, Idaho
My commission expires: November 15, 2012
BONDED THRU NOTARY PUBLIC UNDERWRITERS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3 day of September 2008, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702

☒ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Facsimile (287-7709)


JON R. COX

AUDIO TRANSCRIPT
State v. Filip Danney
CR FE 2007-000963

<u>Line</u>	<u>Time</u>		
1	00:14	Officer:	How are ya?
2	00:15	Danney:	Good. How are you doing?
3	00:16	Officer:	Good. Hey I, uh... You know I've been watching you make ... the ..too short lane change like three times. Man you got...
4	00:24	Danney:	From the Port-of-Subs?
5	00:25	Officer:	No... I ... I don't know ...
6	00:26	Danney:	I just came from the Port-of-Subs.
7	00:27	Officer:	...I came out .. I was out near Wal-Mart. That's where you started in.
8	00:29	Danney:	Yeah, I was at the Port-of-Subs
9	00:31	Officer:	Yeah. So what... So do you know how long you have to signal? No? (laughs)
10	00:34	Danney:	I didn't know you had to signal. I've been driving since I was...
11	00:36	Officer:	No I mean... Right.. Sure I understand that.
12	00:38	Danney:	I didn't realize you had to signal for a length amount of time.
13	00:41	Officer:	Right. Yeah you have to signal...
14	00:42	Danney:	I.... you know...
15	00:44	Officer:	Okay. I tell you, What you gotta do is you have to signal for five seconds or 200 feet.
16	00:50	Danney:	Okay.
17	00:50	Officer:	So...

18 00:51 Danney: **Alright. So.. when I .. cause I pulled out of there and I... (officer laughs).. I mean cause this guy gut me off too. i...**

19 00:59 Officer: **I didn't see that. I didn't see that...**

20 01:00 Danney: **And then...at the stop light right there in front of the freeway.. I just... Is that what you're saying that I just pulled over too fast?**

21 01:07 Officer: **Yeah. Yeah so... I think you were in the inside lane....You must have pulled out...**

22 01:10 Danney: **Yeah I was.**

23 01:10 Officer: **I didn't see where you pulled out of...**

24 01:12 Danney: **I pulled out of the Port-of-Subs and then I cut over to the right lane.**

25 01:14 Officer: **Yeah. So you went over...**

26 01:15 Danney: **Yeah.**

27 01:16 Officer: **Yeah. Something like that.**

28 01:16 Danney: **... Cause there was all this line up...**

29 01:17 Officer: **Yeah. Yeah. I hear ya. I hear ya. Traffic's crappy man. (laughs)... Anyway, you got your license, registration, proof of insurance... Cool. So where're you coming from today?**

30 01:26 Danney: **Uh... Port-of-Subs.**

31 01:27 Officer: **Port-of Subs. Huh. (laughing)**

32 01:29 Danney: **I just got my lunch.**

33 01:31 Officer: **Just out running around?**

34 01:32 Danney: **No. Uh... Lunch break.**

34 01:34 Officer: **Lunch break? Cool.**

35 01:37 Danney: **Here is this and this...**

36 01:39 Officer: **Okay. Let's see what we got here..what'd we have here...**

37 01:44 Danney: **I'd just started muchin my chips.**
(Laughing)

38 01:48 Officer: **You still living on Greenbrier? Okay. You headed home?**

39 01:51 Danney: **That's where I'm headin'.**

40 01:52 Officer: **Cool. What a... let's see...August 22... that looks good. You can have that one back.**

41 02:00 Danney: **So five seconds or 200 feet?**

42 02:02 Officer: **Yeah.**

43 02:03 Danney: **Alright. Good to know.**

44 02:04 Officer: **Yeah. It's good to know. Is your license valid?**

45 02:07 Danney: **Of course.**

46 02:08 Officer: **I ask everybody. I'll be right back. Okay.**

47 02:10 Danney: **Alright.**
(officer walking and getting in car.)
(clicking and beeping noise)
(Phone dialing)

48 03:06 Phone voice: **Yes....**

49 03:07 Officer: **Hey. I got you on speaker phone so it might sound funny, but a..**

50 03:10 Phone voice: **That's okay.**

51 03:11 Officer: **...yeah. This'll be good. He says he's on his lunch break.**

52 03:14 Phone voice: **(laughing) From where?**

53 03:17 Officer: Uh...I didn't.. I didn't ask him from where... I just said so you just out running around today? He says, "Yeah I'm on my lunch break."

54 03:23 Phone voice: Yeah and you know that's bull crap cause he just came in from Oregon.

55 03:26 Officer: Yeah.

56 03:28 Phone voice: Okay.

57 03:28 Officer: So...

58 03:29 Phone voice: Did you smell anything at all in the car, from when you walked up?

59 03:31 Officer: You know, I don't but... um... I remember when...Oh... oh shit.. there's... there's Steve.

60 03:39 Phone Voice: Yeah.

61 03:41 Officer: What's that? Go ahead?

62 03:45 Radio Voice: Where're you at?

63 03:47 Officer: I'm at Overland and Overland Park area. Idaho Central Credit Union. Where are you? I got one coming, but if you want to head up through.. here, that'd be great. Alright. So anyways, um..., My assist is at like Orchard and I-84. Something like that. So...

64 04:12 Phone Voice: m'kay.

65 04:12 Officer: I'm going to uh....start processing this gentleman here. And uh... And then uh...

66 04:19 Phone voice: You just ...you just doing your normal drug interdiction type... kind a stuff. Aren't ya?

67 04:24 Officer: Yeah. Just...

68 04:25 Phone voice: Okay.

69 04:26 Officer: I just told him, hey, I saw you pulling out um....

(obvious break in the audio)

70 04:32 Officer: Since I got an assist here, right here, and I got the dog. I'm just going to run the dog around your car real quick. It'll only take a second okay. Anything I need to know about?

71 04:40 Danney: Just been working all day...

72 04:41 Officer: Just.. what's that?

73 04:42 Danney: I said I've been working all day. Took a lunch break. And uh...

74 04:44 Officer: Been working all day and took a lunch break. Okay. Just hang out for me back here. ... This'll only take a second.

04:58 (dog barking)

75 05:04 Officer: Stay. (whispering to dog) Check it. (Sound of moving and dog breathing) Here... here... Hey Filip?

76 05:44 Danney: Yeah?

77 05:45 Officer: Step... Step back here a little more. Is.. Is there any reason why my dog would alert on your truck?

78 05:52 Danney: Not that I know of.

79 05:53 Officer: Not that you know of. Have you been driving this truck all day or... ?

80 05:55 Danney: yeah. Well not all day.

81 05:57 Officer: Not all day?

82 05:58 Danney: I've been working. I went to lunch.

83 05:59 Officer: You went to lunch?

84 06:00 Danney: Yeah. You can see my sandwich in there.

85 06:01 Officer: Okay. Yeah. Okay.

86 06:03 Danney: You just saw me pull out of that parking lot....

87 06:03 Officer: **Can you uh....have a seat there. Keep your hands out of your pockets. Okay?**

...

88 06:12 Officer: **Check it. (noise of moving around) Yeah. Stinky. Stinky. Good boy. Nice dog. That's the beautiful stuff. No here. (Noise and audio ends 07:14.)**

Session: McLaughlin100208
Session Date: 2008/10/02
Judge: McLaughlin, Michael R.
Reporter: Hohenleitner, Tammy

Division: DC
Session Time: 09:06

Courtroom: CR509

Clerk(s):
Brown, Kristin

State Attorneys:
Haws, Joshua

Public Defender(s):

Prob. Officer(s):

Court interpreter(s):

Case ID: 0001

Case Number: CRFE07-963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Co-Defendant(s):
Pers. Attorney: Cox, Jon
State Attorney: Haws, Joshua
Public Defender:

2008/10/02

09:07:19 - Operator
Recording:
09:07:19 - New case
Danney, Filip
09:07:26 - Judge: McLaughlin, Michael R.
to counsel, review of case, issue re: motion to suppress
09:07:39 - State Attorney: Haws, Joshua
present
09:07:51 - Pers. Attorney: Cox, Jon
present
09:08:00 - Defendant: Danney, Filip
present on bond
09:09:43 - State Attorney: Haws, Joshua
response as to Court comments
09:11:09 - Other: Taddicken, Matt
sworn as witness
09:11:33 - State Attorney: Haws, Joshua
direct examination to witness
09:25:48 - Judge: McLaughlin, Michael R.
objection overruled, speaks to counsel
09:40:59 - Pers. Attorney: Cox, Jon
CROSS EXAM OF WITNESS
09:49:58 - Judge: McLaughlin, Michael R.
questions to witness

00052

09:53:26 - Other: Excused, Witness
09:54:17 - Other: Clifford, Deputy Matthew
sworn as witness
09:54:25 - State Attorney: Haws, Joshua
direct exam of witness
09:54:55 - Pers. Attorney: Cox, Jon
will stip to drug dog's qualifications
09:55:05 - State Attorney: Haws, Joshua
continues
10:09:52 - Judge: McLaughlin, Michael R.
to counsel - sustains
10:10:01 - State Attorney: Haws, Joshua
continues to witness
10:12:17 - Pers. Attorney: Cox, Jon
will stipulate that dog found drugs
10:12:32 - State Attorney: Haws, Joshua
continues to witness
10:13:29 - Pers. Attorney: Cox, Jon
cross exam of witness
10:17:53 - Judge: McLaughlin, Michael R.
State exhibit 1 has been marked
10:18:09 - Judge: McLaughlin, Michael R.
will review CD in Chambers
10:18:18 - Judge: McLaughlin, Michael R.
also Defense exhibit B marked
10:18:46 - Judge: McLaughlin, Michael R.
exhibits A-B admitted, also State's exhibit 1 admitted for h
earing
10:21:30 - Pers. Attorney: Cox, Jon
continues cross exam of witness
10:33:04 - Pers. Attorney: Cox, Jon
continues with witness after Court
10:33:22 - Judge: McLaughlin, Michael R.
questions to witness
10:36:44 - Pers. Attorney: Cox, Jon
no evidence
10:36:50 - Judge: McLaughlin, Michael R.
will take oral arguments or written briefs
10:37:28 - Judge: McLaughlin, Michael R.
will take recess
10:37:34 - Operator
Stop recording:
10:50:08 - Operator
Recording:
10:50:08 - Record
Danney, Filip
10:50:33 - Pers. Attorney: Cox, Jon
does want to submit briefing
10:50:47 - Pers. Attorney: Cox, Jon
decision will be dispositive
10:50:56 - Judge: McLaughlin, Michael R.
will require briefs to be due 11/12/08, simultaneous, then re
buttal 11/17/08,
10:51:54 - Judge: McLaughlin, Michael R.
reply to reply 11/24 - then set status - will get review da
te before trial
10:52:35 - Operator
Stop recording:

00053

DEC - 8 2008

J. DAVID NAVARRO, Clerk
By _____ DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Case No. H0700963

Plaintiff,

vs.

MEMORANDUM DECISION ON
DEFENDANT'S MOTION TO
SUPPRESS

FILIP DANNEY aka VOGELPOHL,

Defendant.

APPEARANCES

For The Plaintiff: Joshua Haws, Deputy Prosecuting Attorney

For Defendant: John R. Cox and Alex McLaughlin of Davison, Copple, Copple & Cox

PROCEEDINGS

This matter came before the Court on October 2, 2008 upon the defendant's Motion to Suppress evidence seized during a traffic stop. After oral argument, the Court took the matter under advisement and allowed the parties to submit additional briefing.

BACKGROUND

The defendant, who is charged with felony Trafficking in Marijuana under Idaho Code § 37-2732B(a)(1), filed a Motion to Suppress evidence obtained by the State during a search of the defendant's vehicle during a traffic stop.

FACTS

Prior to the subject traffic stop, narcotics detective Matt Taddicken received information from an anonymous tipster that the defendant was involved in marijuana trafficking. Shortly thereafter Detective Taddicken investigated that information and found that the defendant owned a pickup truck and a residence at 4711 Greenbrier Drive in Boise. On May 9, 2007, Detective Taddicken searched the trash found outside the defendant's home and discovered indicia bearing the name of the defendant, a paper towel containing marijuana residue, a clear heat-sealed bag, and four cut portions of the same type of heat-seal plastic. Detective Taddicken testified that these are indicators of marijuana packaging commonly utilized by marijuana traffickers. On May 16, 2007, Detective Taddicken placed a GPS remote tracking device on the underside of the defendant's truck. On May 21, the GPS device relayed information to Detective Taddicken that the defendant's truck was located in Northern California in Humboldt County. Detective Taddicken testified that this is an area known by local law enforcement to be a source region of marijuana for the Boise Valley.

Detective Taddicken tracked the defendant's return to Boise on May 22, 2007, whereupon he contacted Officer Clifford and informed him that there was a possibility the defendant's truck contained drugs. Officer Clifford located the truck and began to follow the defendant's vehicle. After observing the defendant change lanes without signaling properly, Officer Clifford stopped the defendant for this traffic infraction. When Officer Clifford questioned the defendant while he was still in his vehicle, the defendant stated to Officer Clifford that he had been working that day and was on a lunch break.

1 Officer Clifford requested the defendant's license and proof of insurance and
2 registration and went back to his squad car. While in his police vehicle Officer Clifford
3 contacted Detective Taddicken about the stop of the defendant and relayed additional
4 information to Detective Taddicken. Officer Clifford returned to the defendant's truck
5 and indicated he had a drug detection dog with him and another officer for back up, and
6 that he was going to send the dog around the car to sniff for illegal substances. While
7 the defendant sat on the curb, the dog alerted on the defendant's truck. The amount of
8 time from the stop of the defendant's vehicle until the deployment of Officer Clifford's
9 drug dog was from 2:17 pm until 2:23, approximately six (6) minutes. (See Motion to
10 Suppress Transcript pp.51-55) Officer Clifford then performed a search and found
11 large bags of marijuana inside a tote in the truck.
12

13 DISCUSSION

14 The defendant does not challenge that he violated a traffic law when he changed
15 lanes or that the initial traffic stop by Deputy Clifford was lawful. The Defendant did not
16 challenge the placement of a GPS monitoring device upon his vehicle either.

17 However the defendant does contend that Deputy Clifford lacked the reasonable
18 suspicion required to extend the detention of the defendant beyond what was
19 necessary for a regular traffic infraction stop. The defendant argues that by abandoning
20 the initial purpose of the stop and conducting a drug interdiction by using a drug dog
21 without reasonable suspicion, Officer Clifford unreasonably detained the defendant and
22 performed an unreasonable seizure. The core issue raised by the defendant's
23 contention is whether Officer Clifford and Detective Taddicken reasonably suspected
24 the defendant's involvement in drug activity, thereby justifying the brief extension of
25
26

1 detention time of the defendant and use of a drug detection canine.

2 For the reasons explained below, the Court will deny the defendant's Motion to
3 Suppress. Even though Officer Clifford abandoned the initial purpose of the stop and
4 briefly extended the detention beyond what was necessary for a traffic infraction, such
5 actions were justified by a reasonable suspicion of illegal drug activity.

6 A traffic stop and subsequent detention constitutes a seizure under the Fourth
7 Amendment, and therefore must be reasonable. *United States v. Cortez*, 449 U.S. 411,
8 417, 101 S.Ct. 690, 694-95, 66 L.Ed.2d 621, 628-29 (1981); *Delaware v. Prouse*, 440
9 U.S. 648, 99 S.Ct. 1391 (1979). An officer may detain a person for purposes of
10 investigating possible criminal behavior if the officer has a reasonable suspicion based
11 on the totality of the circumstances that the person stopped has committed or is about
12 to commit a crime. *State v. Benefiel*, 131 Idaho 226, 229, 953 P.2d 976, 979 (1998).
13 Reasonable suspicion requires less than probable cause but more than speculation or
14 instinct on the part of the officer. *State v. VanDorne*, 139 Idaho 961, 963, 88 P.3d 780,
15 782 (Ct. App. 2004). There must be specific and articulable facts which, taken together
16 with rational inferences, create a reasonable suspicion of criminal activity. *Terry v.*
17 *Ohio*, 392 U.S. 1, 20-21 (1968). An officer must be able to articulate more than a
18 "hunch." *Illinois v. Wardlow*, 528 U.S. 119, 123-24 (2000).
19

20 In this case, the Court will find that the collective knowledge of Detective
21 Taddicken and Officer Clifford regarding the defendant was enough to support a
22 reasonable, articulable suspicion that the defendant was involved in illegal drug activity.
23

24 On a prior occasion, Detective Taddicken received an anonymous tip that the
25 defendant was involved in a marijuana trafficking organization from a tipster. This
26

1 allegation was corroborated when Detective Taddicken found evidence of marijuana in
2 the trash at the 4711 Greenbrier residence. Detective Taddicken took reasonable
3 measures to make sure the substance was marijuana and based upon his experience
4 and training, the other evidence found was consistent with drug trafficking and not just
5 personal use.

6 The defendant's involvement with marijuana was further corroborated when
7 Detective Taddicken tracked the defendant to Humboldt County, California, an area
8 known for its marijuana production. In addition Humboldt County in Northern California
9 is not a "major city" or a community easily traveled to from Boise. These three
10 corroborating facts taken together with rational inferences, articulate more than
11 speculation or a hunch that the defendant was involved in trafficking marijuana.
12

13 Additionally, the short time line within which these events took place further
14 strengthens the reasonable suspicion of defendant's drug involvement. From the time
15 Detective Taddicken searched the defendant's trash on May 9th to the time the
16 defendant was located in Northern California on May 21, only 12 days had passed.
17 Detective Taddicken tracked the defendant back into Boise the very next day on May
18 22. The tight proximity of the sequence of events giving rise to the seizure in question
19 enhances the reasonableness of Detective Taddicken and Officer Clifford's collective
20 suspicion. Therefore, Officer Clifford and Detective Taddicken had a reasonable
21 suspicion that justified the detention of the defendant on his way home directly from
22 Humboldt County for purposes of investigating possible criminal behavior.
23

24 The State argues the suspicion of the defendant's marijuana involvement was
25 even stronger because the defendant was nervous when Officer Clifford pulled him
26

1 over and because the defendant lied about where he had been that day. However,
2 without taking into account the defendant's demeanor or honesty during the traffic stop,
3 the information gathered prior to the traffic stop was sufficient to support a reasonable
4 suspicion of the defendant's trafficking in marijuana.

5 The defendant cites several cases in support of his argument that Officer Clifford
6 impermissibly extended the duration and scope of the traffic stop by waiting for and
7 using a drug dog. We must keep in mind that this traffic infraction stop was
8 approximately six (6) minutes in duration from the stop of the defendant's vehicle until
9 the deployment of the drug dog. The brief extension of time for this traffic stop
10 consisted of a phone call by Officer Clifford to Detective Taddicken and Officer Clifford
11 releasing his drug dog from his vehicle to begin the deployment of the dog.,
12

13 The Idaho Court of Appeals has held that in the absence of reasonable
14 suspicion of drug activity, "a motorist's Fourth Amendment rights are violated if officers
15 lengthen a stop for a traffic violation by using a drug dog to examine the vehicle or by
16 questioning the occupants about drugs." *State v. Wigginton*, 142 Idaho 180, 184, 125
17 P.3d 536, 540 (Ct. App. 2005) (citing *State v. Aguirre*, 141 Idaho 560, 563-64, 112 P.3d
18 848, 851-52 (Ct. App. 2005). However, because the Court finds that a reasonable
19 suspicion of drug activity was present, the Court need not address whether the use of
20 the drug dog impermissibly lengthened the stop in violation of the Fourth Amendment.
21

22 Notably, the facts of the cases cited by the defendant did not support a
23 reasonable suspicion of drug activity by the police. For example, in *Aguirre* the police
24 officer was assisting other officers in a traffic stop when he noticed a vehicle "circling"
25 the scene. *Aguirre*, 141 Idaho at 561-62, 112 P.3d at 850-51. The officer recognized
26

1 the vehicle from prior contacts and knew that its driver was a convicted felon with a
2 history of firearm use. *Id.* This information was not sufficient to support a reasonable
3 suspicion of illegal activity that would justify extension of the duration of the traffic stop
4 and use of a drug dog. In *State v. Parkinson*, the officer pulled the defendant over for
5 having a severely cracked windshield. *Parkinson*, 135 Idaho 357, 359, 17 P.3d 301,
6 303 (Ct. App. 2000). He knew nothing else about the driver that would have allowed
7 extending the duration of the stop. Likewise, in *Illinois v. Caballes* the officer stopped
8 the defendant for speeding but knew nothing else about the defendant. *Caballes*, 543
9 U.S. 405, 125 S.Ct. 834, 836 (2005).

10
11 In those situations, the officers did not have a reasonable suspicion of illegal
12 activity beyond their witnessing the initial traffic infractions, and therefore, they could not
13 extend the duration and scope of the traffic stop without violating the Fourth
14 Amendment.

15 This case is substantially different because, as explained above, Officer Clifford
16 and Detective Taddicken had a collective knowledge of articulable facts supporting a
17 reasonable suspicion that the defendant was involved in trafficking marijuana.
18 Therefore, Officer Clifford's extension of the duration of the traffic stop and use of a
19 drug dog did not violate the Fourth Amendment.

20 CONCLUSION

21 The Court will DENY the defendant's Motion to Suppress.

22 DATED this 8 day of December 2008.

23
24
25 
26 MICHAEL McLAUGHLIN
DISTRICT JUDGE

CERTIFICATE OF MAILING

I hereby certify that on the 8th day of December 2008, I mailed (served) a true and correct copy of the within instrument to:

JOSHUA HAWS
ADA COUNTY PROSECUTING ATTORNEY
INTERDEPARTMENTAL MAIL

ALEX P. MCLAUGHLIN
DAVISON, COPPLE, COPPLE & COX
P.O. BOX 1583
BOISE, ID 83701
VIA FACSIMILE: 386-9428

J. DAVID NAVARRO
Clerk of the District Court

By: 

Deputy Clerk

Session: McLaughlin121008
Session Date: 2008/12/10
Judge: McLaughlin, Michael R.
Reporter: Hohenleitner, Tammy

Division: DC
Session Time: 08:19

Courtroom: CR507

Clerk(s):
Brown, Kristin

State Attorneys:
Atwood, Christopher
Bennetts, Jan
Guzman, Cathy
Haws, Joshua
Longhurst, Jill

Public Defender(s):
Bublitz, Jessica
Cahill, August
Odessey, Edward
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0022

Case Number: CRFE07-963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Co-Defendant(s):
Pers. Attorney:
State Attorney: Haws, Joshua
Public Defender:

2008/12/10

10:16:28 - Operator
Recording:
10:16:28 - New case
Danney, Filip
10:16:32 - Defendant: Danney, Filip
present on bond
10:16:54 - Other: McLaughlin, Alex
present for defense
10:16:59 - State Attorney: Haws, Joshua
present
10:17:17 - Other: McLaughlin, Alex
would request continuance in this matter - handling trial co
unsel is not
10:17:34 - Other: McLaughlin, Alex
available
10:17:47 - Judge: McLaughlin, Michael R.

00062

would like to visit in Chambers
10:17:57 - Operator
Stop recording: (On Recess)
10:33:08 - Operator
Recording:
10:33:08 - Record
Danney, Filip
10:33:09 - Judge: McLaughlin, Michael R.
have met with counsel in chambers - will put this case on fo
r review, PTC
10:33:26 - Judge: McLaughlin, Michael R.
12/19/08 at 2:30pm
10:34:05 - Judge: McLaughlin, Michael R.
JT set for 15th vacated
10:34:57 - Operator
Stop recording:

00063

NO. _____
A.M. _____ P.M. 4

DEC 12 2008

J. DAVID NAVARRO, Clerk
By A. URQUIDI
DEPUTY

JON R. COX, ISB No. 4487
ALEX P. McLAUGHLIN, ISB No. 7977
DAVISON, COPPLE, COPPLE & COX
Washington Mutual Capitol Plaza, Suite 600
Attorneys at Law
199 North Capitol Boulevard
Post Office Box 1583
Boise, Idaho 83701
Telephone: (208) 342-3658
Facsimile: (208) 386-9428

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	Case No. CR FE 2007-00963
Plaintiff,)	
)	
vs.	)	MOTION FOR DISQUALIFICATION
	)	UNDER CRIMINAL RULE 25
FILIP DANNEY aka VOGELPOHL,)	
)	
Defendant.)	
_____)	

COMES NOW the Defendant, Filip Danney aka Vogelpohl, by and through his attorney of record, Alex P. McLaughlin of the firm Davison, Copple, Copple & Cox, of Boise, Idaho, and pursuant to Idaho Criminal Rule 25, moves to disqualify the Honorable Cheri C. Copsey. At the time of the filing of said motion, not more than seven (7) days has passed since the service of a Written Notice setting this case for Arraignment. Further, it has not been fourteen (14) days

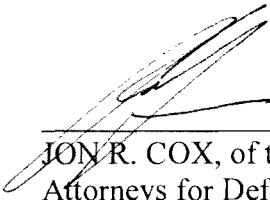
since service of written notice specifying the Honorable Cheri C. Copsey as the presiding Judge, the same being filed on the 9th day of December, 2008.

The Defendant, Filip Danney aka Vogelpohl, respectfully requests the Honorable Judge Copsey execute the attached proposed Order for Disqualification without cause.

DATED this 12th day of December, 2008.

DAVISON, COPPLE, COPPLE & COX

By:


JON R. COX, of the firm
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12th day of December, 2008, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecutor's Office
200 W. Front Street, Rm. 3191
Boise, Idaho 83702

☒ U.S. Mail, postage prepaid
☐ Hand Delivered
☐ Facsimile


JON R. COX

Session: McLaughlin121908
Session Date: 2008/12/19
Judge: McLaughlin, Michael R.
Reporter: Hohenleitner, Tammy

Division: DC
Session Time: 08:16

Courtroom: CR508

Clerk(s):
Brown, Kristin

State Attorneys:
Haws, Joshua
Longhurst, Jill

Public Defender(s):
Cahill, August

Prob. Officer(s):

Court interpreter(s):

Case ID: 0005

Case Number: CRFE07-963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Additional audio and annotations can be found in case: 0006.
Co-Defendant(s):
Pers. Attorney: Cox, Jon
State Attorney: Haws, Joshua
Public Defender:

2008/12/19

15:31:30 - Operator
Recording:
15:31:30 - New case
Danney, Filip
15:32:02 - State Attorney: Haws, Joshua
present - no resolution
15:32:24 - Pers. Attorney: Cox, Jon
present -
15:32:45 - Operator
Stop recording: (On Recess)

Case ID: 0006

Case Number: CRFE07-963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Previous audio and annotations can be found in case: 0005.
Co-Defendant(s):
Pers. Attorney: Cox, Jon

00066

State Attorney: Haws, Joshua
Public Defender:

15:44:05 - Operator
Recording:
15:44:05 - Recall
Danney, Filip
15:44:13 - Judge: McLaughlin, Michael R.
to counsel
15:44:17 - Pers. Attorney: Cox, Jon
present
15:44:23 - State Attorney: Haws, Joshua
present
15:44:26 - Defendant: Danney, Filip
present on bond
15:44:31 - Judge: McLaughlin, Michael R.
time set for status/PTC, has denied motion to suppress
15:45:03 - Pers. Attorney: Cox, Jon
will be entering plea - another case pending
15:46:49 - Judge: McLaughlin, Michael R.
do have time 12/31/08 at 9am for plea
15:47:45 - Operator
Stop recording:

00067

Session: mclaughlin123108
Session Date: 2008/12/31
Judge: McLaughlin, Michael R.
Reporter: Hohenleitner, Tammy

Division: DC
Session Time: 08:24

Courtroom: CR507

Clerk(s):
Brown, Kristin

State Attorneys:
Atwood, Christopher
Bennetts, Jan
Guzman, Cathy
Haws, Joshua

Public Defender(s):
Bublitz, Jessica
Odessey, Edward
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0011

Case Number: CRFE07-963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Co-Defendant(s):
Pers. Attorney: Cox, Jon
State Attorney: Haws, Joshua
Public Defender:

2008/12/31

09:39:24 - Operator
Recording:
09:39:24 - New case
Danney, Filip
09:39:28 - Defendant: Danney, Filip
present on bond
09:39:46 - Pers. Attorney: Cox, Jon
present
09:40:00 - State Attorney: Haws, Joshua
present
09:40:11 - Pers. Attorney: Cox, Jon
will be conditional guilty plea
09:41:06 - Judge: McLaughlin, Michael R.
open sentencing, explains conditional plea to def
09:41:55 - Defendant: Danney, Filip
pleads guilty to trafficking
09:42:25 - Pers. Attorney: Cox, Jon
approves of plea

00068

09:42:41 - Defendant: Danney, Filip
sworn as to plea
09:43:11 - Judge: McLaughlin, Michael R.
reviews plea with defendant
09:45:49 - Judge: McLaughlin, Michael R.
will set sentencing 2/25/09 at 3pm
09:46:22 - Judge: McLaughlin, Michael R.
will order drug evaluation through Ascent
09:47:05 - Operator
Stop recording:

00069

GUILTY PLEA ADVISORY

FILED
AL: 10 P.M.

DEC 31 2008

Defendant's Name: Filip Danney AKA VOGEL DAVID N. VASCO, JR. DEPUTY

Date: 12/19/08 Case Number(s): H0700963

Pleading Guilty to: Charge(s):

I.C. 37-2732 B(a)(1)(B)

Minimum & Maximum Prison/Fine

Maximum: UPTO LIFE

IMPRISONMENT OR FINE NOT
MORE (\$ 25,000⁰⁰) OR BOTH

Minimum: 37-2732 B(a)(1)(B)

MANDATORY MINIMUM FIXED
TERM OF IMPRISONMENT OF (3)

YEARS AND FINE NOT LESS THAN
(\$10,000⁰⁰).

**STATEMENT OF RIGHTS & EXPLANATION OF WAIVERS BY PLEA OF GUILTY
(PLEASE INITIAL EACH RESPONSE)**

- I. You have the right to remain silent. You do not have to say anything about the crime(s) you are accused of committing. If you have a trial, the state could not call you as a witness or ask you any questions. However, anything you do say can be used as evidence against you in court.

I understand that by pleading guilty I am waiving my right to remain silent before and during trial. [Signature]

- II. The waiver of your right to remain silent only applies to your plea of guilty to the crime(s) in this case. Even after pleading guilty, you will still have the right to refuse to answer any question or to provide any information that might tend to show you committed some other crime(s). You can also refuse to answer or provide any information that might tend to increase the punishment for the crime(s) to which you are pleading guilty.

I understand that by pleading guilty to the crime(s) in this case, I still have the right to remain silent with respect to any other crime(s) and with respect to answering questions or providing information that may increase my sentence. RV.

III. You have the right to be represented by an attorney. If you want an attorney and cannot pay for one, you can ask the judge for an attorney who will be paid by the county. I understand RV.

IV. You are presumed to be innocent. You would be found guilty if: 1) you plead guilty in front of the judge, or 2) you are found guilty at a jury trial.

I understand that by pleading guilty I am waiving my right to be presumed innocent. RV.

V. You have the right to a speedy and public jury trial. A jury trial is a court hearing to determine whether you are guilty or not guilty of the charge(s) brought against you. In a jury trial, you have the right to present evidence in your defense and to testify in your own defense. The state must convince each and every one of the jurors of your guilt beyond a reasonable doubt.

I understand that by pleading guilty I am waiving my right to a speedy and public jury trial. RV.

VI. You have the right to confront the witnesses against you. This occurs during a jury trial where the state must prove its case by calling witnesses to testify under oath in front of you, the jury, and your attorney. Your attorney could then cross-examine (question) each witness. You could also call your own witnesses of your choosing to testify concerning your guilt or innocence. If you do not have the funds to bring those witnesses to court, the state will pay the cost of bringing your witnesses to court.

I understand that by pleading guilty I am waiving my right to confront the witnesses against me, and to present witnesses and evidence in my defense. RV.

QUESTIONS REGARDING PLEA

(Please answer every question. If you do not understand a question consult your attorney before answering.)

PLEASE CIRCLE ONE

1. Do you read and write the English language?

YES NO

If not, have you been provided with an interpreter to help you fill out this form?

YES NO N/A

2. What is your age? 31.

3. What is your true and legal name? Filip Vogelbach
4. What was the highest grade you completed in school? 12

If you did not complete high school, have you received either a general education diploma or high school equivalency diploma?

YES NO N/A

5. Are you currently under the care of a mental health professional?

YES NO

6. Have you ever been diagnosed with a mental health disorder?

YES NO

If so, what was the diagnosis and when was it made? _____

7. Are you currently prescribed any medication?

YES NO

If so, have you taken your prescription medication during the past 24 hours?

YES NO N/A

8. In the last 24 hours, have you taken any medications or drugs, or drank any alcoholic beverages which you believe affect your ability to make a reasoned and informed decision in this case?

YES NO

9. Is there any other reason that you would be unable to make a reasoned and informed decision in this case?

YES NO

10. Is your guilty plea the result of a plea agreement?

YES NO

If so, what are the terms of that plea agreement?
(If available, a written plea agreement should be attached hereto as "Addendum 'A'")

11. There are two types of plea agreements. Please initial the one paragraph below which describes the type of plea you are entering:

- a. I understand that my plea agreement is a binding plea agreement. This means that if the district court does not impose the specific sentence as recommended by both parties, I will be allowed to withdraw my plea of guilty and proceed to a jury trial. _____.

b. I understand that my plea agreement is a non-binding plea agreement. This means that the court is not bound by the agreement or any sentencing recommendations, and may impose any sentence authorized by law, including the maximum sentence stated above. Because the court is not bound by the agreement, if the district court chooses not to follow the agreement, I will not have the right to withdraw my guilty plea. YES.

12. As a term of your plea agreement, are you pleading guilty to more than one crime?

YES

NO

If so, do you understand that your sentences for each crime could be ordered to be served either concurrently (at the same time) or consecutively (one after the other)?

YES

NO

N/A

13. Is this a conditional guilty plea in which you are reserving your right to appeal any pre-trial issues?

YES

NO

If so, what issue are you reserving the right to appeal?

THIS COURT'S MEMORANDUM DECISION ON D'S MOTION TO SUPPRESS 12/8/08

14. Have you waived your right to appeal your judgment of conviction and sentence as part of your plea agreement?

YES

NO

15. Have any other promises been made to you which have influenced your decision to plead guilty?

YES

NO

If so, what are those promises?

16. Have you had sufficient time to discuss your case with your attorney?

YES

NO

17. Have you told your attorney everything you know about the crime(s) to which you are pleading guilty?

YES

NO

18. Is there anything you have requested your attorney to do that has not been done?

YES

NO

If yes, please explain.

19. Your attorney can get various items from the prosecutor relating to your case. These may include police reports, witness statements, tape recordings, photographs, reports of scientific testing, etc. This is called discovery. Have you reviewed the evidence provided to your attorney in discovery?

YES NO

20. Are there any witnesses whose testimony would show that you are innocent?

YES NO

21. Do you understand that by pleading guilty you will waive any defenses, both factual and legal, that you believe you may have in this case?

YES NO

22. Are there any motions or other requests for relief that you believe should still be filed in this case?

YES NO

If so, what motions or requests?

23. Do you understand that if you enter an unconditional guilty plea in this case you will not be able to challenge any rulings that came before the guilty plea including:
1) any searches or seizures that occurred in your case;
2) any issues concerning the method or manner of your Arrest; and 3) any issues about any statements you may have made to law enforcement officers?

YES NO

24. Do you understand that when you plead guilty, you are admitting the truth of each and every allegation contained in the charge(s) to which you plead guilty?

YES NO

25. Are you currently on probation or parole?

YES NO

If so, do you understand that a plea of guilty in this case could be the basis of a violation of that probation or parole?

YES NO N/A

26. If you are not a citizen of the United States, the entry of a plea or making of factual admissions could have consequences of deportation or removal, inability to obtain legal status in the United States, or denial of an application for United States citizenship. Do you understand?

YES NO

27. Is the crime to which you will plead guilty one which will require you to register as a sex offender?
(I.C. § 18-8304)

YES NO

28. Are you aware that if you plead guilty you may be required to pay restitution to the victims in this case? (I.C. §19-5304) YES NO

29. Have you agreed to pay restitution in another case as a condition of your plea agreement in this case? YES NO

If so, to whom? _____

30. Is there a mandatory driver's license suspension as a result of a guilty plea in this case? YES NO

If so, for how long must your license be suspended? _____

31. Are you pleading guilty to a crime for which a mandatory domestic violence, substance abuse, or psychosexual evaluation is required? (I.C. §§ 18-918(7)(a), -8005(9), -8317) YES NO

32. Are you pleading guilty to a crime for which you may be required to pay the costs of prosecution and investigation? (I.C. § 37-2732A(K)) YES NO

33. Are you pleading guilty to a crime for which you will be required to submit a DNA sample to the state? (I.C. § 19-5506) YES NO

34. Are you pleading guilty to a crime of violence for which the court could impose a civil penalty of up to \$5,000, payable to the victim of the crime? (I.C. § 19-5307) YES NO

35. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to vote in Idaho? (ID. CONST. art. 6, § 3) YES NO

36. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to hold public office in Idaho? (ID. CONST. art. 6, § 3) YES NO

37. Do you understand that if you plead guilty to a felony, during the period of your sentence, you will lose your right to perform jury service in Idaho? (ID. CONST. art. 6, § 3) YES NO

38. Do you understand that if you plead guilty to a felony you will lose your right to purchase, possess, or carry firearms? (I.C. § 18-310) YES NO

39. Do you understand that no one, including your attorney, can force you to plead guilty in this case?

☒ YES ☐ NO

40. Are you entering your plea freely and voluntarily?

☒ YES ☐ NO

41. Are you pleading guilty because you did commit the acts alleged in the information or indictment?

☒ YES ☐ NO

42. If you were provided with an interpreter to help you fill out this form, have you had any trouble understanding your interpreter?

YES NO ☒ N/A

43. Have you had any trouble answering any of the questions in this form which you could not resolve by discussion with your attorney?

YES ☒ NO

I have answered the questions on pages 1-7 of this Guilty Plea Advisory form truthfully, understand all of the questions and answers herein, have discussed each question and answer with my attorney, and have completed this form freely and voluntarily. Furthermore, no one has threatened me to do so.

Dated this 19 day of December, 20 08.

DEFENDANT

I hereby acknowledge that I have discussed, in detail, the foregoing questions and answers with my client.

DEFENDANT'S ATTORNEY

FINAL

FILED
A.M. P.M. I

JAN 06 2009

J. DAVID NAVARRO, CLERK
Kristen M. Brown
DEPUTY

JON R. COX
Attorney at Law
Post Office Box 1828
Boise, Idaho 83701
Telephone: (208) 287-2008
Facsimile: (208) 287-2009
ISB No. 4487

Attorneys for Defendant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	Case No. CR FE 2007-000963
Plaintiff,)	
)	
vs.	)	ORDER FOR SUBSTANCE
	)	ABUSE EVALUATION
FILIP DANNEY aka VOGELPOHL,)	
)	
Defendant.)	
_____)	

The Defendant having entered a guilty plea in the above entitled matter and cause appearing therefrom;

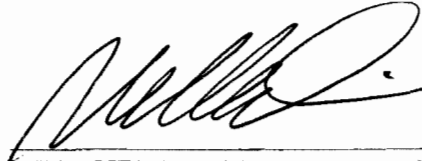
IT IS ORDERED that the Defendant shall submit to a substance abuse evaluation to be conducted by Ascent Behavioral Health Services, who is an approved evaluator with the courts of the Fourth Judicial District. The Defendant shall cooperate with any request made by the evaluator in

ORDER FOR SUBSTANCE ABUSE EVALUATION - 1

00077

order to complete the evaluation. The evaluator shall prepare a report and submit it to the court in written form as required.

DATED this 6 day of June 2009.



MICHAEL R. McLAUGHLIN, District Judge

ORDER FOR SUBSTANCE ABUSE EVALUATION - 2

000'78

NO. _____ FILED _____
A.M. _____ P.M. 330

FEB 23 2009

DAVID NAVARRO, Clerk
By HEIDI KELLY
DEPUTY

JON R. COX
THE COX LAW FIRM, PLLC
777 N. 4th Street
Boise, Idaho 83702
Post Office Box 1828
Boise, Idaho 83701
Telephone: (208) 287-2008
Facsimile: (208) 287-2009
ISB No. 4487

Attorneys for Defendant/Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	Supreme Court Case No. _____
)	
Plaintiff/Respondent,	)	CR FE 2007-000963
)	
vs.	)	MOTION FOR STAY OF
	)	EXECUTION ON JUDGMENT
FILIP DANNEY aka VOGELPOHL,)	
)	
Defendant/Appellant.)	
_____)	

COMES NOW the Defendant, Filip Danney aka Vogelpohl by and through his attorney of record, Jon R. Cox of The Cox Law Firm, and hereby moves this Court pursuant to Idaho Appellate Rule 13(c)(7) to determine whether there shall be a stay of execution of Judgment of Conviction based upon an appeal to the Supreme Court. In support of said Motion, Defendant asserts as follows:

MOTION FOR STAY OF EXECUTION ON JUDGMENT - 1

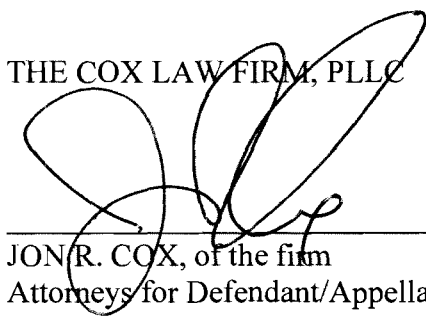
000'79

1. The Defendant was arrested in relation to this pending action on May 22, 2007.
2. The Defendant has been free on a \$100,000.00 bond since that arrest and has been present for all court appearances from that point forward to the present.
3. The Defendant has cooperated with law enforcement and the Ada County Prosecutor's Office in relation to this and other pending actions from the date of his arrest through the present in mitigation hereto.
4. The Defendant will file a timely appeal to the Idaho Supreme Court on this Court's decision concerning the suppression of evidence which if reversed would likely make it impossible for the State to proceed against the Defendant on these charges. A copy of that appeal to be filed is attached hereto and will be filed immediately upon the entry of Judgment.
5. The Defendant having entered a conditional plea in this matter and said appeal having been prepared to be filed, respectfully requests that this court stay the execution of any sanctions which otherwise maybe imposed and maintain the defendant free on bond pending the outcome of this appeal.

DATED this 23rd day of February 2009.

THE COX LAW FIRM, PLLC

By:



JON R. COX, of the firm
Attorneys for Defendant/Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of February 2009, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecutor's Office
200 W. Front Street, Rm. 3191
Boise, Idaho 83702

[] U.S. Mail, postage prepaid
[x] Hand Delivery
[] Facsimile (287-7709)



JON R. COX

JON R. COX
THE COX LAW FIRM, PLLC
777 N. 4th Street
Boise, Idaho 83702
Post Office Box 1828
Boise, Idaho 83701
Telephone: (208) 287-2008
Facsimile: (208) 287-2009
ISB No. 4487

Attorneys for Defendant/Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	Supreme Court Case No. _____
)	
Plaintiff/Respondent,	)	CR FE 2007-000963
)	
vs.	)	NOTICE OF APPEAL
)	
FILIP DANNEY aka VOGELPOHL,)	
)	
Defendant/Appellant.)	
_____)	

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND ITS ATTORNEY OF RECORD, ADA COUNTY PROSECUTING ATTORNEY, AND THE CLERK OF THE ABOVE-ENTITLED COURT

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellant, Filip Danney aka Vogelpohl, by and through his attorney of record, Jon R. Cox of The Cox Law Firm, appeals against the above-named Respondent, State of Idaho, to the Idaho Supreme Court from the entry of Judgment on the

NOTICE OF APPEAL – 1

00082

Conditional Guilty Plea of Appellant, Filip Danny aka Vogelpohl, to be executed on or about the 25th day of February 2009, by the Honorable Michael R. McLaughlin, District Judge.

2. Filip Danney aka Vogelpohl has a right to appeal to the Idaho Supreme Court, and the Conviction described in paragraph 1 above is an appealable order under and pursuant to Rule 11(c)(1), I.A.R.

3. The issues on appeal include, but are not limited to, the following:

a. The Court erred and/or abused its discretion in failing to suppress all evidence seized by the State subsequent to the stop of Appellant's vehicle as set forth in Appellant's Motion to Suppress the same under the Fourth, Fifth and Fourteenth Amendments of the United States Constitution.

4. The Appellant requests that the entire reporter's transcript from the hearing on Appellant's Motion to Suppress held on the 2nd day of October 2008. Said transcript has been previously prepared at the request of the Appellant prior to the filing of this appeal.

The Appellant requests the preparation of the transcript in compressed form as described in I.A.R. 26(m).

5. The Appellant requests the normal clerk's record pursuant to Rule 28(a)(2), I.A.R. In addition, Appellant requests that the clerk include in its record the Affidavit of Jeanette Ostman and Exhibits A and B attached to said affidavit, all of which were admitted without objection at the suppression hearing.

6. I certify that:

a. That a copy of this Notice of Appeal has been served on the reporter;

b. That the Clerk of the District Court has been paid the estimated fee for preparation of the reporter's transcript;

c. That the estimated fee for preparation of the clerk's record has been paid and a copy of this Notice of Appeal has been served on the clerk;

d. That there is no Appellate filing fee since this is an appeal in a criminal case (I.A.R. 23(a)(8));

e. That service has been made upon all parties required to be served pursuant to Rule 20, I.A.R.

DATED this ____ day of February 2009.

THE COX LAW FIRM, PLLC

By: _____

JON R. COX, of the firm
Attorneys for Defendant/Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of February 2009, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecutor's Office
200 W. Front Street, Rm. 3191
Boise, Idaho 83702

☐ U.S. Mail, postage prepaid
☒ Hand Delivery
☐ Facsimile (287-7709)

Honorable Michael R. McLaughlin
Ada County Courthouse
200 W. Front Street
Boise, Idaho 83702

☐ U.S. Mail, postage prepaid
☒ Hand Delivery

Kristin Brown
Clerk to the Honorable Michael R. McLaughlin
Ada County Courthouse
200 W. Front Street
Boise, Idaho 83702

☒ Hand Delivery Prior to Filing

Tamara Hohenleitner
Court Reporter to the
Honorable Michael R. McLaughlin
Ada County Courthouse
200 W. Front Street
Boise, Idaho 83702

[x] Hand Delivery Prior to Filing

JON R. COX

Session: McLaughlin022509
Session Date: 2009/02/25
Judge: McLaughlin, Michael R.
Reporter: Tardiff, Penny

Division: DC
Session Time: 08:25

Courtroom: CR507

Clerk(s):
Brown, Kristin

State Attorneys:
Alidjani, Fafa
Atwood, Christopher
Bennetts, Jan
HAWS, JOSH
McNeese, Timothy
Reilly, Heather

Public Defender(s):
Bublitz, Jessica
Odessey, Edward
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0030

Case Number: CRFE07-963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Co-Defendant(s):
Pers. Attorney: Cox, Jon
State Attorney: HAWS, JOSH
Public Defender:

2009/02/25

14:55:32 - Operator
Recording:
14:55:32 - New case
Danney, Filip
14:55:40 - State Attorney: HAWS, JOSH
present
14:55:54 - Defendant: Danney, Filip
present on bond
14:56:03 - Pers. Attorney: Cox, Jon
present - asking to reset
14:56:15 - Judge: McLaughlin, Michael R.
also def has filed motion to stay as well
14:57:03 - Judge: McLaughlin, Michael R.
will reset this sentencing 4/8/09 at 3pm
14:58:17 - Operator
Stop recording:

00086

Session: MclaughPM040809
Session Date: 2009/04/08
Judge: McLaughlin, Michael R.
Reporter: Omsberg, Nicole

Division: DC
Session Time: 11:35

Courtroom: CR507

Clerk(s):
Brown, Kristin

State Attorneys:
Alidjani, Fafa
Atwood, Christopher
Haws, Joshua
Topmiller, Christopher

Public Defender(s):
Bublitz, Jessica
Steveley, Craig

Prob. Officer(s):

Court interpreter(s):

Case ID: 0007

Case Number: CRFE07-963
Plaintiff:
Plaintiff Attorney:
Defendant: Danney, Filip
Co-Defendant(s):
Pers. Attorney: Cox, Jon
State Attorney: Haws, Joshua
Public Defender:

2009/04/08
15:28:57 - Operator
Recording:
15:28:57 - New case
Danney, Filip
15:29:02 - Defendant: Danney, Filip
present on bond
15:29:11 - State Attorney: Haws, Joshua
present
15:29:26 - Pers. Attorney: Cox, Jon
present
15:29:34 - Judge: McLaughlin, Michael R.
has reviewed PSI and letters
15:29:57 - Pers. Attorney: Cox, Jon
questions letter from Bernie Wells
15:31:25 - Judge: McLaughlin, Michael R.
will order \$1171.78 restitution
15:33:06 - State Attorney: Haws, Joshua
sentencing recs to Court
15:33:43 - Pers. Attorney: Cox, Jon

00087

wants to approach
15:33:53 - Operator
Stop recording:
15:34:31 - Operator
Recording:
15:34:31 - Record
Danne, Filip
15:34:33 - State Attorney: Haws, Joshua
proceeds to Court
15:48:20 - Pers. Attorney: Cox, Jon
speaks to Court on behalf of defendant
15:55:56 - Defendant: Danney, Filip
speaks to Court
15:57:06 - Judge: McLaughlin, Michael R.
appeal rights
15:58:25 - Judge: McLaughlin, Michael R.
speaks to defendant
16:04:48 - Judge: McLaughlin, Michael R.
will impose 3.5 fixed sentence
16:06:10 - Judge: McLaughlin, Michael R.
will impose indeterminate sentence 9 years indeterminate
16:07:44 - Judge: McLaughlin, Michael R.
will impose \$15,000 fine
16:09:32 - Judge: McLaughlin, Michael R.
credit for time served 12 days
16:09:47 - Judge: McLaughlin, Michael R.
speaks as to appeal
16:09:53 - Pers. Attorney: Cox, Jon
will be filing notice of appeal today, argues motion for stay of
16:10:14 - Pers. Attorney: Cox, Jon
prison/sentence
16:11:55 - State Attorney: Haws, Joshua
response as to motion for Stay - opposition
16:12:56 - Pers. Attorney: Cox, Jon
no response
16:13:05 - Judge: McLaughlin, Michael R.
response, is discretionary decision, reviews rule
16:14:18 - Judge: McLaughlin, Michael R.
as to fine as well
16:15:19 - Judge: McLaughlin, Michael R.
not concerned re: def fleeing jurisdiction, speaks as to motion to suppress
16:16:46 - Judge: McLaughlin, Michael R.
in this case, will allow defendant to keep bond in place, also will order
16:17:06 - Judge: McLaughlin, Michael R.
electronic monitoring bracelet while pending appeal, delayed GPS, condition
16:17:28 - Judge: McLaughlin, Michael R.
that defendant not leave Ada County
16:17:42 - Judge: McLaughlin, Michael R.
payment in advance of GPS bracelet, will revisit stay issue
16:19:34 - Judge: McLaughlin, Michael R.
if def able to attain GPS, will NOT count as credit for prison time
16:21:10 - Pers. Attorney: Cox, Jon
will get order for stay over as soon as possible

16:21:28 - Operator
Stop recording:

JON R. COX
 THE COX LAW FIRM, PLLC
 777 N. 4th Street
 Boise, Idaho 83702
 Post Office Box 1828
 Boise, Idaho 83701
 Telephone: (208) 287-2008
 Facsimile: (208) 287-2009
 ISB No. 4487

APR 09 2009
 DAVID NAVARRO
 DEPUTY

Attorneys for Defendant/Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff/Respondent,

vs.

FILIP DANNEY aka VOGELPOHL,

Defendant/Appellant.

CR FE 2007-000963

ORDER ON STAY OF EXECUTION

THIS MATTER having come before this Court upon Defendant's Motion for Stay of Execution on Judgment and good cause appearing therefrom;

IT IS HEREBY ORDERED as follows:

The \$100,000 bail bond is permissibly posted.

1. The Defendant being remanded to the custody of the Ada County Sheriff until the execution, delivery and compliance by the Defendant of the terms of this Order.

2. Under the following conditions the Defendant shall be released from the Ada County Jail pending the appeal in this case and further order of this Court;

a. As a condition of the Defendant's release from jail, he must be fitted with a

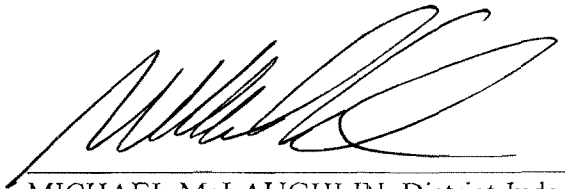
ORDER ON EXECUTION ON JUDGMENT - 1

00090

delayed GPS monitoring device and be responsible for the costs associated therewith.

- b. Defendant shall make arrangements for the ~~partial~~ ^{full} prepayment of the expense for the delayed GPS monitoring device in accordance with the requirements of the Ada County Jail.
- c. Upon the Defendant's release he shall not leave the jurisdiction of Ada County, *Idaho* *mu*
- d. The Defendant shall enter and agreement and comply on that agreement for payment of the GPS device as long as he is fitted with the same as a condition of his release.

DATED this 9 day of April 2009.


MICHAEL McLAUGHLIN, District Judge

ORDER ON EXECUTION ON JUDGMENT - 2

00091'

FILED
APR 22 2009
J. DAVID NAVARRO, Clerk
By ERIN BULCHER
DEPUTY

189

JON R. COX
THE COX LAW FIRM, PLLC
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ISB No. 4487

Attorneys for Defendant/Appellant

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,	)	Supreme Court Case No. _____
)	
Plaintiff/Respondent,	)	CR FE 2007-000963
)	
vs.	)	NOTICE OF APPEAL
)	
FILIP DANNEY aka VOGELPOHL,)	
)	
Defendant/Appellant.)	
_____)	

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND ITS ATTORNEY OF RECORD, ADA COUNTY PROSECUTING ATTORNEY, AND THE CLERK OF THE ABOVE-ENTITLED COURT

NOTICE IS HEREBY GIVEN THAT:

1. The above-named Appellant, Filip Danney aka Vogelpohl, by and through his attorney of record, Jon R. Cox of The Cox Law Firm, appeals against the above-named Respondent, State of Idaho, to the Idaho Supreme Court from the entry of Judgment on the

NOTICE OF APPEAL – 1

AD

00092

Conditional Guilty Plea of Appellant, Filip Danny aka Vogelpohl, to be executed on or about the 8th day of April 2009, by the Honorable Michael R. McLaughlin, District Judge.

2. Filip Danney aka Vogelpohl has a right to appeal to the Idaho Supreme Court, and the Conviction described in paragraph 1 above is an appealable order under and pursuant to Rule 11(c)(1), I.A.R.

3. The issues on appeal include, but are not limited to, the following:

a. The Court erred and/or abused its discretion in failing to suppress all evidence seized by the State subsequent to the stop of Appellant's vehicle as set forth in Appellant's Motion to Suppress the same under the Fourth, Fifth and Fourteenth Amendments of the United States Constitution.

4. The Appellant requests that the entire reporter's transcript from the hearing on Appellant's Motion to Suppress held on the 2nd day of October 2008. Said transcript has been previously prepared at the request of the Appellant prior to the filing of this appeal.

The Appellant requests the preparation of the transcript in compressed form as described in I.A.R. 26(m).

5. The Appellant requests the normal clerk's record pursuant to Rule 28(a)(2), I.A.R. In addition, Appellant requests that the clerk include in its record the Affidavit of Jeanette Ostman and Exhibits A and B attached to said affidavit, all of which were admitted without objection at the suppression hearing.

6. I certify that:

a. That a copy of this Notice of Appeal has been served on the reporter;

b. That the Clerk of the District Court has been paid the estimated fee for preparation of the reporter's transcript;

c. That the estimated fee for preparation of the clerk's record has been paid and a copy of this Notice of Appeal has been served on the clerk;

d. That there is no Appellate filing fee since this is an appeal in a criminal case (I.A.R. 23(a)(8));

e. That service has been made upon all parties required to be served pursuant to Rule 20, I.A.R.

DATED this 7 day of April 2009.

THE COX LAW FIRM, PLLC

By:

JON R. COX, of the firm
Attorneys for Defendant/Appellant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8 day of April 2009, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecutor's Office
200 W. Front Street, Rm. 3191
Boise, Idaho 83702

☐ U.S. Mail, postage prepaid
☒ Hand Delivery
☐ Facsimile (287-7709)

Honorable Michael R. McLaughlin
Ada County Courthouse
200 W. Front Street
Boise, Idaho 83702

☐ U.S. Mail, postage prepaid
☒ Hand Delivery

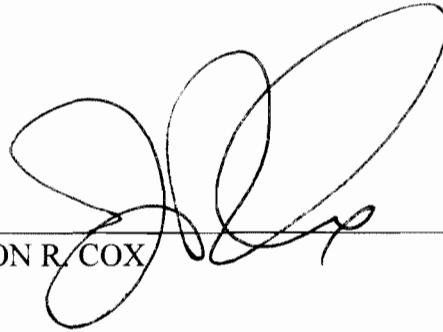
Kristin Brown
Clerk to the Honorable Michael R. McLaughlin
Ada County Courthouse
200 W. Front Street
Boise, Idaho 83702

☒ Hand Delivery Prior to Filing

Tamara Hohenleitner
Court Reporter to the
Honorable Michael R. McLaughlin
Ada County Courthouse
200 W. Front Street
Boise, Idaho 83702

[x] Hand Delivery Prior to Filing

JON R. COX

A handwritten signature in black ink, consisting of several large, overlapping loops and a trailing flourish, positioned above a horizontal line.

APR 10 2009

J. DAVID MAVARRO, Clerk
By [Signature] DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

FILIP DANNEY aka VOGELPOHL,

Defendant.

DOB: [REDACTED]

SSN: [REDACTED]

Case No. H0700963

JUDGMENT OF CONVICTION

This being the time fixed by the Court for pronouncing sentence upon the defendant, FILIP DANNEY aka VOGELPOHL, the Court noted the presence of the Prosecuting Attorney, or his deputy, the defendant, and Jon Cox, counsel for the defendant, in court.

The defendant was duly informed of the Information filed against him, and the defendant entered a guilty plea on December 31, 2008 to the crime of TRAFFICKING IN MARIJUANA, a felony under I.C. §37-2732B(a)(1) committed on or about May 22, 2007.

The defendant, and his counsel, were then asked if they had any legal cause or reason to offer why judgment and sentence should not be pronounced against the defendant, and if the defendant, or his counsel, wished to make a statement on behalf of the defendant, or to present any information to the Court in mitigation of punishment; and the Court, having accepted such statement, and having found no legal cause or reason why judgment and sentence should not be pronounced against the defendant

1 at this time; does render its judgment of conviction as follows, to-wit:

2 That, whereas, the defendant having pled guilty in this Court to the crime of
3 TRAFFICKING IN MARIJUANA, a felony under I.C. §37-2732B(a)(1).

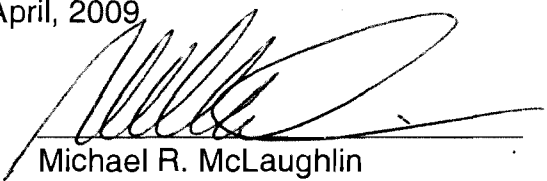
4 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the
5 defendant, FILIP DANNEY aka VOGELPOHL, is guilty of the crime of TRAFFICKING
6 IN MARIJUANA, a felony under I.C. §37-2732B(a)(1) and that he be sentenced to the
7 Idaho State Board of Correction, under the Unified Sentence Law of the State of Idaho,
8 for an aggregate term of twelve and one-half (12.5) years, to be served as follows: a
9 minimum period of confinement of three and one-half (3.5) years, followed by a
10 subsequent indeterminate period of custody not to exceed nine (9) years, with said
11 term to commence immediately. The defendant shall receive twelve (12) days credit
12 for time served prior to the entry of this Judgment.
13

14 IT IS FURTHER ORDERED that the defendant shall pay restitution in the
15 amount of one thousand one hundred seventy-one dollars and seventy-eight cents
16 (\$1,171.78).

17 IT IS FURTHER ORDERED that the defendant shall pay a fine in the amount of
18 fifteen thousand dollars (\$15,000.00).

19 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this
20 Judgment and Commitment to the said Sheriff, which shall serve as the commitment of
21 the defendant.
22

23 Sentenced and dated this 8th day of April, 2009.

24 
25 Michael R. McLaughlin
26 District Judge

CERTIFICATE OF MAILING

I, J. David Navarro, the undersigned authority, do hereby certify that I have mailed, by United States Mail, on this 10th day of April, 2009, one copy of the: JUDGMENT OF CONVICTION AND COMMITMENT TO STATE as notice pursuant to Rule 77(d) I.C.R. to each of the attorneys of record in this cause in envelopes addressed as follows:

ADA COUNTY PROSECUTING ATTORNEY
INTERDEPARTMENTAL MAIL

JON R. COX
ATTORNEY AT LAW
777 N 4TH ST
PO BOX 1828
BOISE, ID 83701

DEPARTMENT OF CORRECTIONS
CENTRAL RECORDS
1299 N ORCHARD SUITE 110
BOISE ID 83706

ADA COUNTY JAIL
VIA MARSHAL'S OFFICE

PSI DEPARTMENT
INTERDEPARTMENTAL MAIL

J. DAVID NAVARRO
Clerk of the District Court
Ada County, Idaho

By


Deputy Clerk

FILED
APR 13 2009
J. DAVID HAVANEC
CLERK
DEPUTY

Greg H. Bower
Ada County Prosecuting Attorney

Joshua P Haws
Deputy Prosecuting Attorney
200 West Front Street, Room 3191
Boise, Idaho 83702
Telephone: (208) 287-7700
Fax: (208)-287-7709

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,)
)
Plaintiff,)
)
vs.)
)
Filip Danney,)
)
Defendant.)
_____)

Case No. CR-FE-2007-0000693

**ORDER FOR RESTITUTION
AND JUDGMENT**

WHEREAS, on the 8 day of April 2009, a Judgment of Conviction was entered against the Defendant Filip Danney; and therefore pursuant to Idaho Code §37-2732(k) and based on evidence presented to this Court;

IT IS HEREBY ORDERED, that the Defendant, Filip Danney, shall make restitution to the victim(s) in the following amounts of:

ADA COUNTY METRO NARCOTIS UNIT	<u>\$652.70</u>
MERIDIAN POLICE DEPARTMENT	<u>\$119.08</u>
DRUG ENFORCEMENT DONATION ACCOUNT	<u>\$400.00</u>

TOTAL: **\$1,171.78**

Interest on said restitution amount shall be computed at _____% per annum.

FURTHER, pursuant to I.C. 37-2732(k) this Order may be recorded as a judgment against the Defendant, Filip Danney, and the listed victim(s) may execute as provided by law for civil judgments.

IT IS SO ORDERED.

DATED this 8 day of April 2009.



Judge

NO. _____ FILED 350
A.M. _____ P.M.

MAY 06 2009

J. DAVID NAVARRO, Clerk
By ERIN BULCHER
DEPUTY

JON R. COX
THE COX LAW FIRM, PLLC
777 N. 4th Street
Boise, Idaho 83702
Post Office Box 1828
Boise, Idaho 83701
Telephone: (208) 287-2008
Facsimile: (208) 287-2009
jon@coxlawboise.com
ISB No. 4487

Attorneys for Defendant

Order
FILED 330
MAY 08 2009
J. DAVID NAVARRO, Clerk
Erin Bulcher
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,)	
	)	Case No. CR FE 2007-000963
Plaintiff,)	
)	
vs.	)	DEFENDANT'S
	)	MOTION TO ALLOW FOR
FILIP DANNEY aka VOGELPOHL,	)	OUT OF DISTRICT/STATE
	)	TRAVEL
Defendant.)	
_____)	

COMES NOW the Defendant, Filip Danny aka Vogelpohl, by and through his attorney of record, Jon R. Cox of The Cox Law Firm, and hereby moves this Court for an Order allowing the Defendant to travel out of the Fourth Judicial District and/or the State of Idaho for limited purposes, including, but not limited to, employment opportunities and to care for property located outside of Ada county.

DEFENDANT'S MOTION TO ALLOW FOR OUT OF DISTRICT/STATE TRAVEL - 1

AD JN

00101

This Motion is made and based on the records and files herein and the Affidavit of Filip Danney aka Vogelpohl filed concurrently herewith.

Oral argument is requested on this motion.

DATED this ____ day of May 2009.

THE COX LAW FIRM, PLLC

By: _____

JON R. COX, of the firm
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of May 2009, I caused to be served a true and correct copy of the foregoing document upon the following individual, by the method indicated, and addressed as follows:

Ada County Prosecutor's Office
200 West Front Street, Room 3191
Boise, Idaho 83702

☐ U.S. Mail, postage prepaid
☐ Hand Delivery
☐ Facsimile (287-7709)

JON R. COX

*Delivered
5/8/09*

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

FILIP DANNEY aka VOGELPOHL,

Defendant-Appellant.

Supreme Court Case No. 36394

CERTIFICATE OF EXHIBITS

I, J. DAVID NAVARRO, Clerk of the District Court of the Fourth Judicial District of the State of Idaho in and for the County of Ada, do hereby certify:

That the attached list of exhibits is a true and accurate copy of the exhibits being forwarded to the Supreme Court on Appeal. It should be noted, however, that the following exhibits will be retained at the District Court clerk's Office and will be made available upon request.

1. Defendant's Exhibit A – CD of Officer Contact w/Def.

I FURTHER CERTIFY, that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:

1. Pre-Sentence Investigation Report.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court this 21st day of May, 2009.

J. DAVID NAVARRO
Clerk of the District Court

By HEADLEY J. THIES
Deputy Clerk

CERTIFICATE OF EXHIBITS

00103

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

Michael McLaughlin /Kristin Brown

MOTION TO SUPPRESS

October 2, 2008

District Judge

Clerk

STATE OF IDAHO,

Plaintiff,

vs.

FILIP DANNEY,

Defendant.

EXHIBIT LIST

Case No. CRFE07-963

JOSHUA HAWS
Deputy Ada County Prosecutor
Plaintiff Attorney

JON COX
Davison, Copple, Copple & Cox
Defense Attorney

BY	NO.	DESCRIPTION	STATUS	DATE
State	1	Deputy Clifford Report/Log	NO	10-2-08
Def.	A	CD of Officer Contact w/Def	Admit	10-2-08
Def.	B	Affd/Transcript of Contact	Admit	10-2-08

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

FILIP DANNEY aka VOGELPOHL,

Defendant-Appellant.

Supreme Court Case No. 36394

CERTIFICATE OF SERVICE

I, J. DAVID NAVARRO, the undersigned authority, do hereby certify that I have personally served or mailed, by either United States Mail or Interdepartmental Mail, one copy of the following:

CLERK'S RECORD AND REPORTER'S TRANSCRIPT

to each of the Attorneys of Record in this cause as follows:

JON R. COX

ATTORNEY FOR APPELLANT

BOISE, IDAHO

LAWRENCE G. WASDEN

ATTORNEY FOR RESPONDENT

BOISE, IDAHO

J. DAVID NAVARRO
Clerk of the District Court

Date of Service: MAY 22 2009

By BRADLEY J. THIES
Deputy Clerk

CERTIFICATE OF SERVICE

00105

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

FILIP DANNEY aka VOGELPOHL,

Defendant-Appellant.

Supreme Court Case No. 36394

CERTIFICATE TO RECORD

I, J. DAVID NAVARRO, Clerk of the District Court of the Fourth Judicial District of the State of Idaho, in and for the County of Ada, do hereby certify that the above and foregoing record in the above-entitled cause was compiled and bound under my direction as, and is a true and correct record of the pleadings and documents that are automatically required under Rule 28 of the Idaho Appellate Rules, as well as those requested by Counsels.

I FURTHER CERTIFY, that the Notice of Appeal was filed in the District Court on the 9th day of April, 2009.

J. DAVID NAVARRO
Clerk of the District Court

By CHADLEY J. THIES
Deputy Clerk

CERTIFICATE TO RECORD

00106